

JUN 4 1963

## In The Nation

### It Could but Won't Be Like Push-Ball

By ARTHUR KROCK

WASHINGTON, June 3—There was a good deal of verbal fencing between Governor Wallace of Alabama and the TV panel which interviewed him yesterday about whether and in what circumstances he planned to prevent two Negro applicants to be "enrolled" at the State University on June 10. But, since the questioners made his evasion easier by failing to describe the process of "enrollment," there naturally could have been no clear answer—even assuming that the Governor, a University alumnus, remembers how enrollment is done.

There are at least three "doors," at which Wallace could take his promised stand to block enrollment, which must be passed before its full requirements are met at Tuscaloosa. But he could acquire at any one of these doors the legal materials for the "test" of Federal v. state sovereignty that he said yesterday is his sole objective, and from which he will suppress all "violence." Hence it must be assumed that the Governor's resistance will not develop into something resembling a game of push-ball, more especially a push-ball game played on three fields.

This sport consists of two teams, each trying to push a large, leather-covered ball over the goal line of the other. That makes a certain degree of physical contact and conflict unavoidable. But, insofar as could be determined from the exchanges on yesterday's TV program, Wallace will not personally interpose physical resistance to the entrance of the two Negroes.

He indicated that what he is exporting is a request to stand aside on the show of a Federal court injunction, and obey after making a legal record for appeal to the Supreme Court, perhaps even to the point of submitting peacefully to arrest should he press the procedure that far. But in Federal Judge Lynne's courtroom in Birmingham today, Kirman Jackson, the Governor's attorney, more than implied that Wallace will not carry out his protest to this extreme, and at the most will redeem his "blocking at the door" campaign commitment by a very token demonstration indeed. The Federal Government, said Jackson, was basing its request for an injunction of a supposition of "activities in the future of Wallace that may or may not transpire. . . . A thousand causes might intrude which would preclude the carrying out of this [Wallace] threat. . . we must," the attorney argued, "have more proof than 'campaign oratory.'"

Since the Governor not only made the threat as a candidate, but repeated it after his election, this presentation could foreshadow what would be in effect, a backdown. Although Wallace could get a real—and peaceful—physical workout by throwing a block at all of the three "doors" applicants at the University of Alabama must pass through to complete the process of enrollment, a showdown or a backdown can occur at any one.

#### What 'Enrollment' Is

The first gives entrance to registration headquarters. There the prospective student meets with an adviser in his chosen study field; a tentative schedule for the semester is worked out; and the adviser signs a card of approval. The second door to enter is that of Foster Auditorium. The third gives access to a large room within the building, with tables assigned to each university department. The applicant goes to the table appropriate to his study plan and gets an IBM card indicating there is physical space for him in the classrooms. After one more stop, where the cost of the tuition schedule is determined and stamped on a card given to the applicant, his IBM cards are collected, he pays his fee at a checkout point; and then he leaves Foster Auditorium "enrolled"—necessarily through a final door.

The dramatic portal of interception by the Governor would, of course, be that giving entrance to the auditorium, and this is where Wallace led the Alabama electorate to expect him to stand in an unyielding assertion of state sovereignty. But, as his lawyer reminded Judge Lynne and the lawyers of the Federal Government, "a thousand causes"—of which one could be a curt refusal by the Supreme Court to review the Governor's appeal from an injunction sustained by the Federal courts below—can arise by June 10 to close the show before it opens.

It begins to look as if a bet against that climax would fulfill a bookmaker's dream.

## Desegregating the North

Governor Wallace of Alabama is the latest in the long list of diehard Southern segregationists to accuse the North of hypocrisy on race relations. The slowness with which racial barriers are crumbling in Northern cities and suburbs lends some plausibility to his complaint, no matter how self-righteously we may point to the differences in Northern attitudes, practices and local laws.

Nearly half the country's 19 million Negroes live outside the South. And, despite the proliferation of Federal, state and municipal regulations forbidding discrimination in housing, the vast majority live in areas that are exclusively Negro or that are in transition from all-white to all-Negro.

This ghetto pattern in housing reflects itself in the race pattern in the public schools. New York City, a pioneer in "open enrollment" as a technique for better racial balance, is fighting a losing battle. The new school census lists 117 elementary schools in which 90 per cent or more of the pupils are Negroes or Puerto Ricans, as against 74 four years ago. The complexity of the problem is indicated by the fact that more than three-quarters of all Manhattan elementary school students are Negro and Puerto Rican. Most upper-income white families have moved to the suburbs or enrolled their children in private schools.

Prejudice and educational deprivation combine to limit Negro job opportunities, even though half the states in the North and West now have fair employment laws. Negro unemployment is double that among white workers, and automation is cutting deepest into the unskilled and semi-skilled jobs that have traditionally been the Negro's chief hope.

Here again New York, with statutory safeguards that are considered a model, is far from blemish-free in practice. A survey just completed by the Federal Bureau of Labor Statistics provides gloomy evidence of the links that exist in this city between race and economic neglect, as measured both by high unemployment rates and low earnings. No city is immune from the kind of violence that erupted in Philadelphia last week, when Negroes forced a breakthrough into the lily-white ranks of the skilled building trades. Biracial committees are being set up in increasing numbers to try to eliminate tension and conflict.

The most important difference between North and South in this respect is that here in the North no one in a position of public or private leadership seriously believes that the clock of racial progress can—or should—be stopped. The only question here is whether it is not ticking too slowly.

AS Tuesday, June 1, 1963 THE WASHINGTON POST

# Court Hears Wallace Tape Defying U. S.

By Laurence Stern  
Staff Reporter



United Press International

**BIRMINGHAM, June 3—**In District Judge Seybourn II's hushed Federal courtroom, Lynne promised to rule within here the voice of Alabama 48 hours on the Government's Gov. George C. Wallace vowed defiance, assailed the Federal Judiciary and calmly asserted Barrett announced that he would play the news conference tape, which was made by recording that the Justice Department submitted today to support its request that Wallace be enjoined from showing up at the University of Alabama on Monday to bar the doorway to Negro students.

Wallace was not present in court. He was represented by a battery of five lawyers on his so-called "sovereignty committee." The Federal Government's case was made by the Administration's chief civil rights troubleshooter, Assistant Attorney General Burke Marshall, and an aide, St. John Barrett.

After hearing Wallace's tape-recorded news conference statement and arguments from opposing sides in the impending campus showdown, U. S. When it was over Marshall declared that the course of action threatened by the governor would do "irreparable injury to the United States" by undermining the integrity of the Federal judiciary. He noted that Wallace's statement was addressed not only to the press but to "the people of Alabama at large, United States and generally the world." Marshall further appealed for resolution of the issues in the courts rather than through "physical confrontations" on the street or on the campus.

Kirkman Jackson, one of Wallace's attorneys, objected that the Government had no basis for injunctive action against the Governor. He described Wallace's vow to stand in the doorway of the

The University of Alabama has announced that James Hood, above, is the third Negro to qualify for admission to the summer term, which begins next Monday.

University of Alabama as "campaign oratory."

There was no element of certainty, Jackson said, in Gov. Wallace's alleged assertion that he was going to be in Tuscaloosa on the 10th of June.

As Judge Lynne heard the arguments on the Wallace case, it was announced that a third Negro student, James Hood, has been admitted to the main campus at Tuscaloosa. Previously admitted by court order were Vivian J. Malone, 20, of Mobile and David M. McIlathery, 27, a Huntsville mathematician.

An injunction against Wallace is considered the most probable next step in the University of Alabama desegregation crisis. If the Governor persists in his plan to interpose himself between the court order and admission of the students, it could lead to his arrest on Monday.

# Wallace to Defy Court Ruling

## Aide to Offer His Defense at Hearing Today

**Insists He Will 'Stand in Door' At University**

BIRMINGHAM, Ala., June 3 (AP)—The case of the Federal Government vs. Alabama Gov. George C. Wallace comes up today in United States District Court. There were indications that, come what may, Gov. Wallace will go through with his plan to try to keep Negroes out of the University of Alabama.

No one expected the fiery segregationist Governor to be present for the legal proceedings. He said on a national television program yesterday that he would send counsel to present his defense of his stand-in-the-door policy against integration.

The Justice Department asked Judge Seybourn H. Lynne for an injunction barring Gov. Wallace from interfering with an earlier court order directing the university system to enroll two Negroes.

### Testing Validity

Repeating his vow to stand in the university doors to keep Negroes out, Gov. Wallace told interviewers on NBC television's "Meet the Press" that his defiance would "test" in the courts the validity of this order involving our school system.

The issue, he said, is whether Alabama may run its schools as it has or must submit to Federal Government operation of the school.

He said repeatedly that violence would not be tolerated at the university, but said it remains to be seen whether Federal troops will be needed to get two Negroes into the university system next week.

The Governor said he has appealed to the citizens of Alabama to stay away from the campus.

"Absolute law will prevail," he said. "We will not tolerate mob action."

While Gov. Wallace talked, hundred of white and Negro pickets marched outside. Many chanted "Wallace must go" and "Down with Wallace." The pickets, however, were outnumbered by policemen, who threw up massive security measures.

### Johnson Quiet

There were these major developments elsewhere:

In Jackson, Miss., scene of mass arrests of pro-integration demonstrators last week, the Sabbath was quiet. Negro leaders held a night strategy session behind closed doors. Earlier a rally heard James H. Meredith pledge to "use every resource at my command to liberate my people." He is the first Negro knowingly admitted to the University of Mississippi.

Peaceful picketing continued at Tallahassee, Fla., where Negroes are seeking desegregation of two white movie theaters.

At Gainesville, Fla., home of the University of Florida, scattered violence erupted last night after eight Negro youths were turned away from two

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white theaters. Police said a Negro suffered a flesh wound in an arm when shot after he went to the aid of a white man pulled from a car and attacked by Negroes after a car stalled in the Negro section. City leaders called a meeting today to try to ease racial tension.

After an eight-day truce, racial demonstrations resumed last night in Greensboro, N. C. About 200 Negroes marched silently through the downtown streets. A Negro spokesman said the marches were resumed because the city had been slow in responding to pleas for an end to segregation in business establishments.

### Served at Plane

A United States marshal succeeded only yesterday in serving Alabama's Governor with a court summons concerning today's hearing. Gov. Wallace had eluded service for a week but was caught as he boarded a plane for New York.

Asked if he would comply with an order against interference, Gov. Wallace told interviewers:

"I am going to take the action I feel you would want me to take."

He added: "I am not hoping to have myself arrested, this is a dramatic way to express to the American people the omnipotent march of centralized government."

Gov. Wallace confirmed earlier reports from aides that he would be represented by counsel at the hearing.

If he was not represented at all, he would be subject to a default judgment and a probable immediate injunctive order in the absence of any defense.

In civil cases the defendant himself is not required to be present for the proceedings, a high local source said.

### Mocked State Rule

In the complaint filed May 24, the Federal government asserted its sovereignty and said no Governor has the right under any cloak "to obstruct or prevent the execution of the lawful order of a court of the United States."

Gov. Wallace had invoked state sovereignty in vowing to block the Negroes.

Scheduled for enrollment for the summer session which opens next Monday are Vivian J. Malone, 20, of Mobile, and David M. McGlathery of Huntsville. Miss Malone will seek to enroll at the main campus in Tuscaloosa. Mr. McGlathery at the Huntsville branch.

The university was briefly desegregated under court order in 1957 by Authine Lucy Rouse broke out and she later was expelled for unprofessional conduct that school authorities compared with the mob.

Trustees of the university agreed May 20 to enroll the Negro students to avoid contempt proceedings.

### Cities Vow Pledge

Gov. Wallace's defiance has been criticized by 17 cities. James B. Allen, Attorney General Richmond Flowers, leading Tuscaloosa businessmen and others.

The Governor repeated in the television interview that his stand is in fulfillment of a campaign pledge.

"If I am arrested by the Federal Government, I'll go to jail," he said.

He again criticized President Kennedy's dispatch of Federal troops to Alabama on a standby basis for possible use in Birmingham racial troubles. More than 2,000 soldiers remain at Fort McClellan, 120 miles from Tuscaloosa.

WALLACE

## Governor Insists He Will Not Heed Enrollment Order by Court Today

With Concessions



Indicating he will do all he can to keep Negroes out of the University of Alabama, Gov. George C. Wallace appears with Lawrence Spivak today on the latter's "Meet the Press" television show in New York.

—AP Wirephoto

Washington, D. C., Monday, June 2, 1963

WILLIAM S. WHITE

## Mongers of Hate and Hysteria

**They Inflame Racial Tensions in U. S.;  
Blackmail of Fear Threatens Freedom**

This country, which has not in fact ever been very strong on hatred, is being warned, rightly if excessively, against the "merchants of hate."

We ought, however, to be alerted to another sort of merchant, too. This is the monger of hysteria and the peddler of a double-think based upon double standards of truth and objectivity.

All over this land he is suddenly overstating and inflaming, rather than sensibly seeking to abate, the current racial tensions of the United States.

To say that these are ugly tensions is to say the truth. To "warn," as many are doing as though on signal, that these tensions are the foreshadowings of national revolution is to speak inflammable falsehood. But this dangerous falsehood can become dangerous reality if the hysteria monger is not quieted or will not quiet himself and so cease bellying "fire!" in a crowded national theater.

For now he is raising "demands" not simply for the just vindication of the Negro's actual rights. He is demanding the creation, for the Negro alone, of false "rights" which are not now, and never have been in all the long centuries of an Anglo-American concept based on orderly freedom, the rights of anybody at all.

Fair-minded men—and being fair now requires fairness to the majority as well as to the minority and fairness also to Constitutional truth—will agree that the actual rights thus far denied the Negro must be granted to him. These actual rights include the ballot and an equal opportunity in all the public facilities—the schools, the parks, transportation and so on.

But they do not include and will never include—unless the Kennedy administration is to seek that destruction through Congress or the Supreme Court—the destruction of the most ancient and irreplaceable right of man in an open society. This is the right of privacy outside his public obligations, including the private operation, use or misuse, of private property.

If a shopkeeper can be compelled by unexamined Federal force to serve all who appear there and if on refusing his business can be disrupted with Federal blessing by demonstrators swarming in from the streets, the institution of private property is finished. When the institution of private prop-

erty is finished, personal privacy is finished.

The lawyer who prefers to choose his clients—or his clerks—can find his law office seized and occupied by those he has rejected. So can the doctor. So can any editor or other professional man. The employer undoubtedly can be told whom to fire and whom he must not fire.

Private property and private attitudes, however sourly run the one and however wrong the other, are not public utilities nor publicly established and paid-for enterprises. They are not buses on which all are free to ride by dropping in a dime.

And take note of this: This is no longer simply "a problem for the South," that region of minority economic power, minority political power and minority opinion-making power. So long the South has been the very safe, and very rewarding, whipping boy for the hysteria-monger comfortably established far from the scene of tortured dilemma.

But no more. Involved here is all of this country and every man in it, of every color. For, consciously or not, the hysteria-monger—that collective symbol for demagogic politicians and emotionally transfixed opinion-molders—is reaching for something far different from equal justice for minorities. He is, consciously or not, reaching for the end of orderly freedom.

And he is doing so by a blackmail of fear: fear that unless administration and

Congress submit, "they"—the Negroes—will turn in violence upon their country.

This is more than a libel on the Negro race. This is creating an intolerable either-or climate alien to all that this Nation is.

A terrible issue is being approached not on such criteria as what in fairness and lawfulness should be done, but rather upon what "must" be done lest "they" bring anarchy and revolution.

Let those who ceaselessly "warn" of what "must" be done pause before it is altogether too late and ask themselves:

Am I really "warning," or am I inciting violence and thus repaying past injustice to one minority with immense and irreparable future injustice to all Americans and to the American vision of unity in diversity which is the greatest gift in all history to free government?

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# Tuscaloosa Set for End Of Bias at University

By REILMAN MORIN

TUSCALOOSA, Ala., June 3 (AP). — Foster Auditorium, a shiny brick building with white facings on the University of Alabama campus, is the focal point today in a critical move toward peaceful desegregation in the South.

One week from today, Vivian Malone, a Negro student, will be brought to the portals of the auditorium.

Waiting there to bar her from entering—so he has vowed—will be Gov. George C. Wallace.

But if a secret, carefully detailed plan works with precision, Miss Malone will pass into the building and enroll as a student in the School of Commerce, the second of her race to be admitted to the university since it was founded in 1831.

What then?

## Plan Against Violence

"We are not going to have another Oxford," they tell you in Tuscaloosa—a reference to the riots that brought two deaths and many injuries at the University of Mississippi last September when James Meredith was enrolled.

"We are not going to permit another Authine Lucy case," they say—a reference to the shattering violence of 1955 when Miss Malone's predecessor was briefly enrolled.

The atmosphere in Tuscaloosa today is wholly unprecedented in this correspondent's experience of similar racial situations.

Community and university leaders have gone to enormous lengths, planning and preparing in every conceivable way, to prevent violence next Monday and in the succeeding days.

## Law and Order

"Let's have law and order" is the theme, endlessly chanted. Sometimes they add, "Even if we don't like the law."

Resolutions calling for upholding law and order have come from numerous organizations in the city, businessmen, women's clubs and labor unions.

Not only in Tuscaloosa but elsewhere in Alabama, newspaper editorials are hammering the same theme.

"All Alabama stands to lose," said an editorial in the Birmingham Post-Herald, urging Gov. Wallace to "drop his battling stance."

The Gadsden Times said, "Gov. Wallace is not only in open defiance of the Federal Government, but is running head-on against the wishes of the University of Alabama Board of Trustees."

The Birmingham News said: "Though many whites have been highly critical of the United States Attorney General, when he said the issues should be fought out in the courts and not in the streets, Southerners in great numbers said, 'Amen.'"

## Many Factors

In Tuscaloosa, the equation has many factors.

The Governor is one. Will he simply make a symbolic effort to block Miss Malone? Or does he have further plans?

What effect will his "battling stance" have on extremists of both races?

Student sentiment at the university seems to be overwhelmingly prepared to "accommodate" to the enrollment of Miss Malone, officials said. However, a few issues of a segregationist newspaper, "Rebel Underground," appeared clandestinely on the campus until authorities tracked down the source and stopped it.

So community leaders express confidence that the situation will be kept under control. But if violence does break out, it will not be for lack of planning and effort to head it off.

## Preparations Made

This has been going on in Tuscaloosa for many months. It started with a series of quiet meetings of community leaders. The objectives—to prepare the city (population about 65,000) for integrating the university and to marshal sentiment for doing it peacefully.

Similar meetings were organized on the campus by student leaders and university officials. There will be more before next Monday.

Leaders of the city's Negro community were advised of all this.

Through its editorial columns, the Tuscaloosa News plays an effective role in preparing community opinion.

And if violence breaks out, there are powerful law enforcement details on or near the scene, including riot-trained troops of the 101st Airborne Division.

Press arrangements for covering the story are spectacularly complete.

## Press Coverage Set

The university engaged as a consultant Edward Ball, former Associated Press executive and now publisher of the Venice "Fila" Gondola.

The Tuscaloosa News has set up a press headquarters in an air-conditioned building about a mile from the campus. Batteries of telephones, connecting directly with long-distance operators, and extra long-distance circuits have been installed.

Typewriter tables line the walls. If necessary, university representatives will staff the press room around the clock.

JUN 3 1963

## House G. O. P. Pushing New Rights Bills

**Kennedy Request  
To Congress Seen  
Ready Tomorrow**

Twenty House Republicans plan to stage a march on the Kennedy administration today by calling for legislation to eliminate segregation in all public accommodations.

Similar legislation, being prepared by the administration, was due to reach Congress later this week or next week, but there was a report that President Kennedy will send a new civil rights message to Congress tomorrow.

The House Republicans, accusing the Democratic administration of "foot dragging" on civil rights, said yesterday they will take the floor today to urge support for their measure and another proposal to give the Justice Department broad legal authority in all areas of civil rights.

### Senate G. O. P. Conference

In the Senate, Republicans plan to hold a conference Wednesday on civil rights.

Democratic congressional leaders said last week they expected Attorney General Robert F. Kennedy to tell a House Judiciary subcommittee Thursday of the administration's proposals. The Justice Department, however, said Thursday's appearance was not settled. Earlier, Mr. Kennedy had been scheduled for a June 12 subcommittee appearance.

President Kennedy leaves Wednesday for a trip through the West that will take up the rest of the week. He is reportedly anxious to have the new civil rights proposals before Congress in advance of his departure.

### Two Speeches Scheduled

The President will have at least two major opportunities to speak out on the civil rights issue in the next week before two Negro students are to be enrolled at the all-white University of Alabama next Monday.

On Wednesday Mr. Kennedy is to deliver the commencement address at the Air Force Academy in Colorado. And next Monday morning he is the commencement speaker at American University here.

In its statement yesterday the Republicans said "foot dragging" is "irreconcilable with the temper of the times which demand immediate action."

### Administration Package

The administration's rights package would forbid restaurants, theaters, hotels and the like to bar Negroes if the business operates in interstate commerce and would authorize Federal authorities to establish court-approved desegregation schedules for school districts which refuse to act on their own.

The 20 House Republicans massing under the civil rights banner include four members of the Judiciary Committee—Representatives Lindsay of New York, Cahill of New Jersey, MacGregor of Minnesota and Mathias of Maryland.

Although the committee has been holding hearings since early last month, "not one leading administration official has appeared to press for the en-

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actment of legislation," the Republicans complained.

### Faces G. O. P. Leadership

In the Senate, Republican Senator Javits of New York has called the conference of G. O. P. Senators for Wednesday. Senator Javits said in a recorded television program yesterday, the meeting is the most important of its kind since reconstruction days.

Democrats are divided on civil rights, he said, giving the Republicans an opportunity to act. "Will we be the party of Lincoln?" he asked. "Will we expose and take the leadership in the civil rights struggle?"

"This is, in a sense, the moment of truth for Republican Senators," he added.

Meanwhile, Senator Javits' Republican colleague, Senator Keating of New York, mixed praise of the administration with some criticism.

### Asks Call to Congress

In a recorded radio-television interview, Senator Keating praised Attorney General Kennedy for using the telephone in efforts to bring about voluntary desegregation of business establishments.

But, Senator Keating continued, "there is one phone call which neither the President nor the Attorney General has made which is vitally important. It's a call to the leadership in both House and Senate to get behind urgently needed civil rights legislation."

The Attorney General spoke about civil rights yesterday at commencement exercises of Trinity College here. The problem is "intensely human," he said, and its "ultimate solution will rest in the ability of men and women everywhere to recognize and follow their own best instincts."

The current case, he said, "is not something that can be solved by governmental edict."

### Robertson Differs

Senator Robertson, Democrat of Virginia, entered a strong dissent to the idea that new civil rights legislation is needed, saying "they're not using the legislation that they have now."

Speaking on a recorded television interview program (CBS-Washington Report) yesterday, Senator Robertson strongly condemned mass Negro demonstrations, calling them "the greatest organized movement of violence since the depression."

He added he has been surprised that President Kennedy hasn't issued a statement saying "you can't build a reform with respect for law and order on the basis of violence and that the program we have right now violation of laws and violence to attract attention and probably use it as a political whip to get quick punitive legislation passed."

### Humphrey Seeks Action

But Assistant Senate Democratic Leader Humphrey urged in a statement that the Democratic-controlled Congress pass new civil rights legislation "whatever the cost of time, effort and controversy in the ranks of Congress."

He advocated legislation about the time that Mr. Kennedy is expected to offer.

In a copyrighted interview today with U. S. News & World Report, Representative Adam Clayton Powell, Democrat of New York, said Negroes in the North and South want the same thing. To move out of "black ghettos," equal job opportunities and because most are Democrats, more reeducation in patriotism from Democratic leaders in the big cities.

"There is very little difference between the North and the South," the Negro Congressman said. "except that I would say there is more ignorance in the North and more racism in the South."



JUN 3 1967

Pledges 'No Violence' on TV Show

# Wallace Dodges Test of Doorway Stand Plan

**BIRMINGHAM, Ala., June 3 (UPI)**—The Justice Department goes into Federal court today in an effort to keep Gov. George Wallace from carrying out his threat to "stand in the schoolhouse door" to block integration at the University of Alabama.

The fiery little segregationist said yesterday in New York that he would not attend the hearing before U. S. District Judge Seybourn Lynne but his attorneys would be there.

Sources close to the governor said his attorneys were to argue that his presence at the university, where two Negroes are scheduled to enroll June 10 would be necessary to forestall violence.

Gov. Wallace said on a TV news program, "Meet The Press" (NBC) he would be at the university to "invoke some constitutional questions" and "I will take no actions that would not be in keeping with the dignity and integrity of the people of Alabama."

"I shall stand at the door as I stated, but, of course, as Governor it will not be as an individual but as the people of Alabama. We are not going to have any violence."

"The first man who throws a rock or brick or bottle will find himself arrested."

Negro and white picketers paraded outside New York's Rockefeller Center while Mr. Wallace was appearing

Scores of police were on hand.

In Jackson, Miss., Negro leaders hoped the presence of James Meredith, the first colored student at the University of Mississippi, would bolster a civil rights push that already has resulted in the jailing of 370 Negroes.

Mr. Meredith told more than 1000 Negroes last night in what he said was his first formal speech, that he had dedicated himself to the "purge of Americans." He came to Jackson to speak in behalf of an educational fund he has launched for needy youngsters.

## KENNEDY SPEEDS CIVIL RIGHTS BILL; PLANS A MESSAGE

Hopes to Get Program Ready  
for Congress Tomorrow  
Before Going on Trip

By ANTHONY LEWIS

WASHINGTON, June 2

President Kennedy hopes to send to Congress this Tuesday a special message proposing civil rights legislation.

White House aides said today that only final drafting of the bill and last-minute polishing of the accompanying message remain to be done before the president can send the bill to Congress tomorrow.

Mr. Kennedy has decided to write a letter to Congress in the form of a written message, rather than a speech, to announce his new civil rights program. He will also speak to Congress tomorrow, but he has given no indication of whether he will address the House or the Senate.

Nevertheless, the new program will bear the stamp of Kennedy. They have been raised in the past, since the only serious racial turmoil in this country in April 1963, and under the impetus of the growing number of Negroes in the South.

### Starts Trip Wednesday

The President is scheduled to leave for a Western tour on Wednesday. He will take a train to Los Angeles, then fly to San Francisco. It is expected that the civil rights message will be sent to Congress before he leaves.

The President's new Administration proposal is expected to be a bill prohibiting racial discrimination against customers of businesses. It would also prohibit discrimination against other businesses.

This measure is expected to exclude the smallest local enterprises. It may concentrate on interstate commerce, businesses with interstate highways and interstate telephone lines, and other major enterprises.

It would also prohibit discrimination against customers of businesses. This will probably be an authorization for the Justice Department to seek injunctions against non-complying stores.

### Fearful of Violence

The Administration's feeling is that segregation at lunch counters and in similar places of public accommodation is a major irritant causing racial tension.

Demonstrations are mounting. They have produced desegregation in some areas, but the Administration is convinced that the possibility of violence is real. It wants to provide a legal outlet.

In addition to the public accommodations provisions, the new legislative proposal is expected to include one designed to speed the lagging pace of school desegregation.

Whether this will take the form of a new law or a presidential executive order is not yet clear.

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## KENNEDY SPEEDS CIVIL RIGHTS BILL

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sibility is a measure to bring the Federal Government actively into the desegregation effort by letting it help prepare plans and help conciliate disputes.

The President sent a first civil rights message to Congress on Feb. 28. It called for these three steps:

1. Legislation to expedite voting suits in the Federal courts and to let temporary referees register Negroes while the suits were pending.

2. Authorization for the Federal Government to provide technical and financial aid to school districts that are desegregating.

3. Extension of the Civil Rights Commission, now scheduled to go out of business Sept. 30, for four years.

Voting has been the principal emphasis of the Kennedy Administration's civil rights efforts, as it was of the Eisenhower Administration's. The feeling was that the ballot would give Negroes in the South the leverage to get equal rights in other fields.

But recent events have persuaded the President and especially his brother, Attorney General Robert F. Kennedy, that broader legislation should be pushed now.

### Congress Favorable

The mood in Congress is regarded as generally receptive, although Southern opposition is not expected to be milder than usual. The demonstrations at Birmingham and other places have made civil rights a more urgent topic at the Capitol than for some years.

Four Republican members of the House Judiciary Committee accused the Administration to-

day of "foot-dragging" on civil rights.

Representatives John V. Lindsay of Manhattan, William T. Cahill of New Jersey, Clark MacGregor of Minnesota and Charles McC. Mathias Jr. of Maryland announced that they would introduce civil rights legislation of their own tomorrow.

The Republican bill would prohibit discrimination by all businesses authorized by a state or locality to supply food, amusement, accommodations or services to the public. It would also authorize the Justice De-

partment to sue on behalf of any individual constitutional rights.

Other business in Congress this week is expected to be of less than major importance.

## Police and Pickets Mass as Wallace Speaks on TV Here

By MILTON BRACKER  
Gov. George C. Wallace of Alabama was the subject yesterday of police security measures that turned the R.C.A. Building in Rockefeller Center into a no man's land for New Yorkers.

The occasion was the Governor's appearance on "Meet the Press," a National Broadcasting Company television program.

Barriades lined all of 49th Street from the Avenue of the Americas to Fifth Avenue and Rockefeller Plaza between 60th and 66th Streets. They were manned by hundreds of policemen in and out of uniform including many Negroes.

On the program, in an interview with Lawrence Spivak, the producer, and two reporters, Mr. Wallace insisted that in defiance of the Federal Government, he would stand in the door to block the entry of two Negroes to the University of Alabama June 10.

He refused to say that the only way the two could be enrolled would be under Federal troop protection.

He also insisted that all he thought was a constitutionality issue. He said he promised the people of Alabama that he would bar the Negroes. He pledged that he would permit no violence, and denied a suggestion that he wanted to attract a segregationist crowd.

"I made a speech the other day," he said, "in which I have asked the people to stay away from the university campus. I do not want them there. I am going to stand for them because I represent them."

"I do not want anyone present at the University."

Continued on Page 16, Column 3

## WALLACE IS GIVEN HEAVY PROTECTION

Continued From Page 1, Col. 4

Alabama campus except authorized persons, and that will be the case. We are not going to have any violence at the University of Alabama on June 30."

He said all he wanted was to see if the Supreme Court, having reversed the doctrine of "separate but equal" school facilities in 1954, might not reverse itself again.

Picketing by hundreds of anti-segregationists, representing most major civil rights groups, was noisy but orderly. While the police sealed off all entrances to the skyscraper containing the N.B.C. studios, pickets paraded along the established peripheries, carrying signs and chanting.

"North and South, down with Jim Crow!" the line along the southern rim of the building chanted.

Police Commissioner Michael Murphy and high aides made a point of not giving a figure on the number of policemen deployed. The number was described by Deputy Commissioner Walter Arm as "adequate" for what another official called "maximum security."

Network personnel were astonished at the number of uniformed men in the building, any being physically present. The lobby was cleared, barricades diminished the area around the studio elevators, operators were forbidden to take anyone to the third floor, the site of the telecast, and technical employees had to go to a security office on the seventh floor to get a button that would enable them to go to their jobs on the program.

### Ambulance Ready

An ambulance from Roosevelt Hospital was parked on 50th Street, near the skating rink. A mobile communications unit was in Rockefeller Plaza. Shortly before the Governor arrived, nine detectives in the plaza huddled like football players out of uniform.

Mr. Spivak said the security had been tighter than that for Anastas Mikoyan, Soviet Deputy Premier.

The Governor, wearing a three-button, dark tropical suit, appeared unperturbed by the attention and the proximity of Negroes among those assigned to guard him. But as program time neared, he persistently clasped the fingers of one hand with those of the other, alternating from hand to hand.

While he made no reference, during the program, to the police arrangements, he said that neither Birmingham nor New York was a Utopia.

"You can't even walk in Central Park without fear of being raped, mugged and shot," he said.

After the program, he agreed that he had never been in Central Park, but that he had read a lot about it.

"And from what I read, it's a lot safer in Birmingham than in New York," he added.

"For the white man" put in a young Negro woman.

The Governor disputed this distinction.

"Some of the intelligent ones don't believe in God," he said. "But in Alabama we do."

The Governor, who arrived



ON WAY TO PROGRAM:  
Gov. George C. Wallace of Alabama arriving in Newark.

at Newark, said on the program he did not know that "I have received any action that I consider legal service in any court matter pending."

He was reported to have been served with a subpoena yesterday while boarding the plane at Birmingham. The subpoena ordered him to appear in Federal Court today to show cause why he should not be enjoined from interfering in the enrollment of the Negroes.

"But I will be represented specially tomorrow by attorneys in the court," the Governor said. "There is no necessity for my being physically present, anyway."

He declined to tell his travel plans, saying "I'm going to take a look at the big building." Turning away, he caught to inject a light note.

"How did the Mets come

JUN 3 1953

## WALLACE SCORNS CITIES OF NORTH

**Calls New York Citadel of  
Hypocrisy on Race Issue**

By GAY TALESE

Negroes are treated far worse in the North than in the South, Gov. George C. Wallace of Alabama said here yesterday. The Governor, here for a television experience, called cities like New York "citadels of hypocrisy."

Interviewed at a hotel on Fifth Avenue, he speculated that the hotel and the neighborhood were as segregated as any in the South.

"I've been in these Northern hotels," he said, "and I hear these clerks telling Negroes: 'Now, let me see. Oh, yes, we're full up,' or, 'Doesn't seem your reservation is here.'"

"Down South, at least, we shoot straight across the board, we tell you how we feel. Here you practice subterfuge and hypocrisy."

Smoking a cigar and relaxing two hours before appearing on the National Broadcasting Company's "Meet the Press," Governor Wallace went on:

"You know, Negroes really are a lot better off in the South than here. Go down to my little country town in Clayton, Ala., and you'll see Negroes and whites sitting around together, talking, very friendly; and you'll also find Negroes living 160 yards from my home there. You'll find six Negro homes next to the Governor's mansion in Montgomery, in fact."

"And any Negro who will work, and wants to go forward, always finds a place in the South. We have 10,000 Negro school teachers in Alabama, while you only have 4,000 in

New York State to teach the 207,000 Negro students here.

"Michigan has only 450 Negroes, according to figures of the Michigan Education Association, while in Georgia they have 11,000 professionally trained Negro teachers."

**Blames the Press**

One of the Governor's aides, also with a cigar, interrupted to say, "Great opportunities in the South." Mr. Wallace then continued:

"Trouble in the North is the press. They come down there and blow up everything to sell papers."

"You can have gang killings

in New York, but it's immaterial yet when Emmett Till, when somebody killed that little boy — my God! Headlines all over country."

The aide interjected again: "Making a mountain out of a molehill."

"Take this headline," Governor Wallace said, holding up a May 14 copy of The Chicago Tribune. "It says, '5,000 Stone Cops In Shooting' after the police shot and wounded a 14-year-old Negro boy. But they don't send no troops into Chicago."

"And in Washington, D.C., after that Thanksgiving Day football riot. There were 485 whites

hurt, and they used dogs to control the crowd. Yet when we use dogs in Birmingham, they make it would like using dogs is a terrible thing."

"Besides, in 45 days of the so-called Birmingham riots, only 69 people were hurt, of which only 22 were Negroes, and not one of them was seriously injured. But that didn't get in the Northern papers. No, sir. In the North, you don't have the guts to be truthful."

All that will get into newspapers he said, are reports of Negro domination by Southern

THE BIRMINGHAM NEWS

June 2, 1963

# Wallace may hope recess will soften filibusters

BY HUGH W. SPARROW  
MONTGOMERY, June 1—Gov. George C. Wallace may be hoping that senators filibustering against House Bill 9 will return from the weekend recess with their opposition softened.

House Bill 9 would give the governor power to name attorneys for the Highway and Education Departments. An immediate talkathon began when it was called up.

Wallace called in officials from home counties of the filibusters for conferences in an effort to bring pressure on his opponents. Seymore Trammell, state finance director and Wallace's right-hand man, said the governor was "well pleased" with the response he received from the local officials.

TRAMMELL BRUSHED aside any suggestion that the recess was called because compromise negotiations might be under way.

LL Gov. James B. Allen, president of the Senate, was one of the first to suggest the recess. He let it be known he hoped senators might return to the State Capitol with a fresh approach to the deadlock that might be constructive.

Administration adherents later huddled in Room 203 and decided to recess for the weekend.

"A DECISIVE MAJORITY of the Senate is in favor of the governor's bill," Trammell declared. "Why should we want to consider negotiating with a bloc of obstructionists who have been doing nothing but stage one filibuster after another ever since the Legislature was sworn in?"

Wallace argues the filibuster is threatening the success of his multi-million dollar road program.

Atty. Gen. Richmond Flowers

says he would "sign any appointment" of an attorney sent to him by Wallace. He said he opposes the idea of giving all the condemnation work in a large county such as Jefferson to a single attorney, but said he would agree to do it on a temporary basis so the highway program can move ahead.

FINANCE DIRECTOR TRAMMELL said there has been a lot of misinformation about efforts of the Justice Department to serve Gov. Wallace with a subpoena in connection with the hearing in Birmingham Monday.

"They are still trying to put a subpoena in the governor's hand," Trammell said. "When this thing first came up we notified federal authorities we would be willing to accept service if they left a subpoena with the governor's executive secretary."

"But that wasn't the way Atty. Gen. Kennedy wanted it. He wanted the satisfaction of getting direct service on the governor. It was something just to satisfy his ego."

"It is common knowledge to lawyers that federal authorities have held that even the announcement in a newspaper that a subpoena has been issued is sufficient notice to a person that he is wanted to appear in court."

Trammell said nevertheless that federal marshals still are trying to hand a subpoena personally to the governor.

AS RECENTLY as Friday morning, he said, a marshal saw Gov. Wallace's executive secretary, Earl Morgan, entering at the door to the Capitol nearest the governor's office.

"The marshal, who had a subpoena wrapped up in a newspaper, said to Morgan: 'Governor, here's a subpoena for you.'"

Trammell said Morgan quickly told the marshal that he was not the governor, but he didn't seem to be convinced.

Morgan asked the marshal where he was from and he replied, "From West Florida."

ANOTHER POINT Trammell cleared up was the reason for having Gov. Wallace surrounded by Highway Patrol troopers when he walks out into the street.

Wallace's life has been threatened, Trammell said, and those who are guarding him cannot afford to allow any total stranger approach the governor within touching distance simply because he may say he is a process server.

# At Montgomery as School Crisis Nears

By Arthur Evans

MONTGOMERY, Ala., June 1 (AP)—Here, in a state where dreams of going to the moon are turning to reality, the space age man is about to leap a hurdle into the air, a hurdle that has been a barrier against the Negro.

As things now stand a week from Monday two Negroes will try to enroll at the University of Alabama.

A 20-year-old coed will show up at the main campus in Tuscaloosa. A 28-year-old space mathematician will appear for graduate work at its branch school in Huntsville, home of the famous rocket-producing space agency.

James A. Ray, Alabama's attorney general, has said that he will not sue, but repeated that if necessary, the Federal government will send in troops to keep the peace.

George C. Wallace, Gov. of Alabama, has said that he will not sue, but repeated that if necessary, the Federal government will send in troops to keep the peace.

Robert F. Kennedy, U.S. attorney general, has said that he will not sue, but repeated that if necessary, the Federal government will send in troops to keep the peace.

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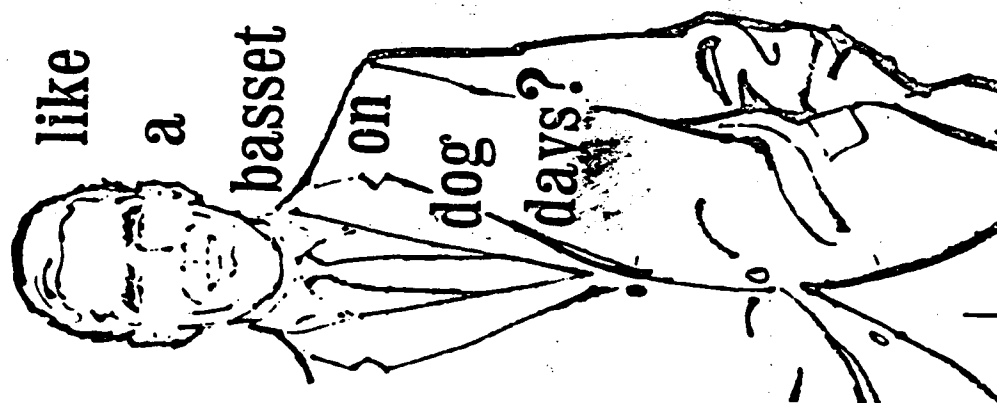
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Do you feel like a basset on dog days?



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# Wallace's Lawyers To Fight Injunction

By Don McKee

BIRMINGHAM, June 1 (AP) carry out the duties, appealed Attorneys for Gov. George Wallace are expected to fight Federal Court efforts to bar him from interfering with desegregation of the University of Alabama. "The good name of the State is at stake as the crisis . . . nears its climax," he declared. "What takes place at the University on and after June 10 will affect the future welfare of our State for decades to come."

Sources close to the Governor said today that he does not plan to show up Monday at a Federal Court hearing on the injunction in Birmingham. However, he will be represented by counsel unless he changes his mind, the sources said.

Precisely what legal tack the segregationist Governor will take has been kept under wraps by his advisers. U. S. District Judge Seymour H. Lane issued an order May 24 directing Wallace to appear Monday and show why he should not be barred by injunction from interfering with the enrollment of two Negroes in the University of Alabama system.

## Draws New Criticism

Wallace's vow to stand in the door and block any Negro at the University drew more criticism, this time from Lt. Gov. James B. Allen, who warned that defiance of court orders will lead Alabama down a "blind alley."

Allen said this State must not follow the Oxford route, referring to bloody riots that followed desegregation of the University of Mississippi in the wake of defiance by Gov. Ross Barnett.

Allen, who would become the chief executive if the Governor went to jail for contempt of court and could not

## Urged to Drop Plan

Businessmen in Tuscaloosa, site of the main University campus, urged earlier in the week that Wallace abandon his doorway defiance. Attorney General Richmond Flowers had criticized Wallace but offered to help the Governor after a Federal judge refused to delay University desegregation.

The close-mouthed Wallace is scheduled to appear Sunday on NBC-TV's "Meet the Press," in New York. But he has given no public hint of whether he will keep his date in court.

In a complaint filed more than a week ago, the Justice Department asked that Wallace, his agents and others be prohibited from interfering with the court-ordered enrollment of the Negroes.

The encounter between the Governor and the students presumably will come June 10—first day of registration for the summer session. Scheduled to enroll at the main campus is Vivian J. Malone, 20, of Mobile. David M. McIlathery, 27, of Huntsville, will attempt to enter the Huntsville branch.

## Tallahassee Negroes Picket 2 Theaters

TALLAHASSEE, Fla., June 1 (AP)—Negro university students, backed by Circuit Court protection, threw up a silent picket line before Tallahassee's two white movie theaters today in protest to segregation.

Four pickets paced the sidewalk in front of the State and Florida Theaters carrying signs reading "Equal treatment under the law," "Are you an ugly American?" "We shall win by love," and "Nonviolence is our watchword."

Yesterday, Circuit Judge Ben C. Willis, in a modified court order, recognized the right of Negroes to picket and protest peacefully.



WASHINGTON POST-TIMES HERALD

## Alabama Governor Says Mob Action Will Be Prevented

**By John P. MacKenzie**  
**Staff Reporter**

Gov. George C. Wallace of Alabama said yesterday that the University of Alabama will be "peaceful and serene" when he stands at the door June 10 and personally blocks the registration of a Negro.

"Absolute law and order will prevail," said Wallace. He said he will "not tolerate mob action" of the kind that occurred when the University of Mississippi was desegregated last fall.

Wallace said he would fulfill a campaign pledge to represent "the people of Alabama" in testing the power of federal courts to compel desegregation.

The Governor said his legal position was pegged to the hope that the Supreme Court

VAMP larger profits  
in election of slim down  
in nations in South after  
two days of secret delib-  
eration. Page A2

James Meredith, at Jackson, Miss., Negro rally, pro-  
claiming intention to blockade  
the people's road. Page 32

Wages of 240 instructors  
Wages of 240 instructors  
and labor to open up job  
opportunities regardless of  
color or race continued  
to be cut. Page A6

"I don't change my ruling that segregated schooling is unconstitutional," he indicated that he would obey a final court order against him.

"I have not said I was going to disobey a Federal court order for defiance sake," he said. "But for the purpose of participating as a Governor of the State of Alabama I have a right to test in the courts the validity of this order suspending our school system."

**WALLACE—From Page 11**

## Gov. Wallace Promises No Alabama Violence

edge on the program that he had accepted service of a subpoena to appear today before a Federal judge in Birmingham. He said his personal appearance was not necessary anyway and that he would be represented by attorneys.

A Federal marshal handed Wallace the subpoena earlier in Birmingham as Wallace was about to board a plane for the New York telecast. Wallace reportedly had been dodging process servers for more than a week.

### Hearing on Injunction

The hearing was ordered for Wallace to show cause why he should not be enjoined from interfering with court-ordered desegregation at the University's main campus at Tuscaloosa and its Huntsville branch.

Wallace said his defiant posture was "the most dramatic way to impress on the American people the march of centralized government." He denied that he was hoping to get himself arrested but said he would "go peacefully" if that occurred.

"I am against violence," Wallace said. He added that he was asking spectators to stay away from the campus.

The Governor said he was not sure whether Federal troops, which President Kennedy has ordered sent to the state, would be used.

Wallace, whose "several  
year tenure" stand has stirred  
reports of possible aspiration  
for higher office, denied those  
reports. He said he and Missa

issippi Gov. Ross Barnett were cooperating in discussing possible use of independent presidential electors in their state Democratic parties, but had no "third party" ambitions.

There is "prejudice and bias" against Southern aspirants for the Presidency, Wallace complained. He also charged that the President and his brother, Attorney General Robert F. Kennedy, were not taking action in racial disturbances in the North because "it's not good politics."

## Defends Alabama Schools

Wallace defended the quality of Alabama's school system, the Nation's only totally segregated system. He said he hoped the Supreme Court would use the Alabama case to return to the doctrine of "separate but equal" facilities which the Court repudiated in 1954.

On the legislative front, the House Republicans said they will introduce tough new civil rights bills today. Administration "foot-dragging," they charged, "is irreconcilable with the temper of the times which demands immediate action."

Principal sponsors of the program were Reps. John V. Lindsay (N. Y.), William T. Cahill (N. J.), Clark MacGregor (Minn.), and Charles McMathias Jr. (Md.).

- The Commission said their bill would empower the Attorney General to bring civil action against owners and operators of public accommodations, licensed locally or by a state "where the business segregates or otherwise discriminates against customers because of race or color."

### Purposes of Bill

Under the bill, a suit also could be instituted against any state or local official who "seeks to require or encourage segregation or discrimination."

Another provision would supply the "Title III" powers which were stricken by the

closely resemble plans which were reported to be under intensive consideration in the White House.

Sen. Jacob K. Javits (R.N.Y.) joined the weekend discussion on civil rights by calling for the Title III legislation. He predicted, however, that there would be a compromise within the Administration in view of its dependence on Southern votes for other legislative goals.

In a television show taped for New York stations, Javits said any strong civil rights bill would encounter a Senate filibuster and it would take "almost every Republican vote in the Senate" to help break it. The Senate has 32 Republi-

... said the Republican  
... could meet  
Wednesday at his request with  
civil rights the prime topic

A Southern Senator, A. Willis Robertson (D-Va.), called the current wave of civil rights demonstrations "a deplorable thing" and "the greatest organized movement of violence since the depression."

Robertson, appearing on "Washington Report" (WTO) TV, CBS, said he was "surprised" that the President, instead of seeking "punitive legislation," was not issuing a call for obedience to local law.

But another Democrat Sen

JUN 1 1964

sem."

Wallace spoke on the nationally televised program "Meet the Press" (NBC-TV, ABC) while Administration leaders were working over one on stepped-up civil rights legislative proposals.

#### JOP Sees 'Foot-Dragging'

Administration officials refused to discuss their proposals, reportedly centered on school desegregation timetables and banning of discrimination in public accommodations, and they would not say how soon the proposals would be transmitted to Congress.

A band of 20 House Republicans accused the White House of "foot-dragging" and offered bills of their own.

Wallace refused to acknowl-

See WALLACE, A2, Col. 2.

Senate in a compromise over the Civil Rights Act of 1957. Title III permits the Attorney General to bring suit against state or local officials who are depriving citizens of their civil rights because of race.

The Republican proposals

Hubert H. Humphrey predicted yesterday that new civil rights legislation would be enacted this year.

Such legislation is needed, the Democratic Whip said, "whatever the cost of time."

effort and controversy . . .

NEW YORK TIMES

MAY 30 1963

### **Birmingham Negro Seeks Post as U.S. Attorney**

Special to The New York Times

WASHINGTON, May 29—A Negro attorney of Birmingham, Ala., W. L. Williams, has applied for a position as assistant United States attorney in that city, the Department of Justice said tonight.

There is no vacancy in the post at present but one is expected soon, the department spokesman said, confirming in part a news article in The Birmingham News.

Mr. Williams, identified by The News as an unsuccessful candidate for city councilman in April, wrote the department recently to inquire of his possible eligibility for the post if the vacancy developed.

His application was forwarded to United States Attorney Macon Weaver at Birmingham for consideration along with those of others seeking the job, the department spokesman said.

Negroes are now serving as assistant United States attorneys in several Southern states including Florida, Georgia, Tennessee and North Carolina, the department said.

MAY 30 1953

WASHINGTON POST-TIMES HERALD

# Legislature Backs Stand By Wallace

Resolution Support-  
Law and Order in  
Desegregation Fight

MONTGOMERY, Ala., May 29 (AP)—The State Senate wrote a law and order appeal today into a resolution endorsing Gov. George Wallace's promise to fight court-ordered desegregation at the University of Alabama.

With passage of the disputed resolution, the Senate abruptly ended one filibuster, then, almost in the same breath, plunged even more deeply into another.

The first all-night session of the 1953 regular legislative term seemed likely as the legislature fell fast.

The prolonged debate kept the speakerlocked upper chamber from voting on an administration-sponsored bill to give state voters more authority to remove judicial lawyers.

After a brief recess, the House returned to the floor to consider an amendment to the resolution commending Wallace for his announced intent to disobey a Federal

See ALABAMA, A7, Col. 3



The University of Mississippi was ordered by a United States District Court Judge Tuesday to admit Cleve McDowell, a 21-year-old Negro, to its law school for the term starting June 5.

ALABAMA—From Page A1

# Alabama Legislature Backs Wallace Stand

court order for the admittance of two Negroes to the University of Alabama.

But it put the Legislature on record against mob violence, and urged residents of Alabama to stay away from the University campus and let the Governor handle matters his way.

The resolution was approved after warring factions agreed on the wording of the law and order amendments. It endorsed the Governor's decision to challenge the desegregation order in the higher courts as well as his pledge to physically bar the two Negroes when they seek to enroll June 10.

And it expressly spelled out a vote of confidence in the Governor.

With the compromise amendment came a prepared statement to emphasize Wallace's previously expressed determination to prevent violence.

The statement, read to his colleagues by Sen. Walter Horton of Dallas County, the Governor makes his position of the law and order promised campus appearance amendment, said the Governor Horton said. Wallace's very presence in an announced attempt to turn the Negro situation into a mob scene.

His pledge to maintain law and order is sincere," Horton continued.

The statement said Wallace "However much we might like himself will physically bar to, the end result is for the Negroes from the University doors and that law enforcement officers, presumably the rest of the South, state troopers, will be used to shoulder part of the blame for keep order."

Givhan told the Senate that the Governor decided on his defiant stand "because he had done more for the Negro people of this Nation in the past, we wouldn't awakened to the onslaught of now, he reaping the whirlwind."

nor, because of his pledges and because of the confidence the people of Alabama have in him, can maintain law and order... and at the same time fulfill his covenant with the people.

That was a reference to his campaign promise last year to defy any Federal court desegregation order.

Givhan is the 61-year-old legislator who said he "knocked the stuffing" out of two Negro women at a Montgomery bus terminal last Friday after he said they shoved into line ahead of two white women. No charges were filed.

The support Wallace resolution itself said the Legislature "abhors" mob rule, and expressed belief that a majority of the people in Alabama want law and order.

But despite those assurances, freshman Sen. James E. Horton Jr. of Limestone County, the Governor makes his position of the law and order promised campus appearance amendment, said the Governor Horton said. Wallace's very presence in an announced attempt to turn the Negro situation into a mob scene.

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## U.S. May Name Negro to Law Post in Birmingham

BIRMINGHAM, May 29 (AP) — U. S. Attorney General Robert F. Kennedy is considering the appointment of a Negro to fill a vacancy in the U. S. Attorney's office here, the Birmingham News said today.

The News identified the Negro as W. L. Williams, an attorney who was an unsuccessful candidate for City Councilman in April.

Williams has been active in several desegregation suits, including one to desegregate schools.

News sources said Williams's application was sent to the Attorney General's office on Tuesday.

Rep. George Huddleston (D) of Birmingham accused the Justice Department and U. S. Civil Service Commission on Tuesday of tampering with the merit system of Federal employees.

He said an increasing number of reports are reaching him that Washington has

ordered Federal agencies in Birmingham to hire more Negroes and to promote them within the Civil Service. If this is true, Huddleston

said, the two Federal agencies are undermining the merit system. Earlier, the News had reported that several agencies had already begun hiring Negroes in Birmingham. The News said this followed a secret meeting of Government agency heads, the Justice Department and Civil Service Commission representatives.

MAY 30 1963

## Justice Dept. Told It Can't Sue to Mix Alabama Schools

BIRMINGHAM, Ala., May 29 (AP) — A Federal judge ruled today that the Justice Department does not have the right to sue for desegregation of two Alabama school systems.

U. S. District Judge H. Hobart Grooms dismissed a suit against the Huntsville City and Madison County School Boards and said the State's pupil placement law would apply in the case.

The Justice Department sought an injunction against racial segregation in the schools in Federally impacted areas. The action contended that the civil rights of children of Federal employees and military personnel were violated by a segregated school system.

"Except in the field of voting rights," Grooms said, "the Congress has granted the Government no authority to bring such a suit as this. In fact, it has refused to grant such permission."

A similar suit dismissed in Mississippi by Judge Sidney Mize on May 16 was used as a precedent by Grooms. Another such action filed against the Mobile (Ala.) County school system has not reached a hearing.

"To intend this brief to encompass the scope of the (Mississippi) opinion would be to do more than is required or is needful," Grooms said.

In Washington, a Justice Department spokesman said that today's ruling and the Mississippi case would be appealed to a higher court.

The Huntsville and Madison County schools receive Federal funds because of the location there of Redstone Arsenal, the Marshall Space Flight Center and other Federal installations.

Grooms said the act that

NEW YORK TIMES

MAY 30 1963

**Alabama Asserts U.S.  
Favors Negroes in Hiring**

WASHINGTON, May 29 (UPI)—Representative George Huddleston Jr., Democrat of Alabama, asserted today that the Federal Government had ordered an increase in its hiring of Negroes in Birmingham, Ala. He accused the Administration of tampering with the merit system.

Mr. Huddleston said that the Justice Department had persuaded the Civil Service Commission to see that more Negroes were hired by Federal agencies in Birmingham.

"This action on the part of the Civil Service Commission is plain tampering," he said. "It is all the more alarming and distressing because Civil Service officials are actually participating in efforts to show favoritism to a specific group of applicants. It undermines the entire concept of the merit system."

NEW YORK TIMES

MAY 30 1963

## The Birmingham Schools

The action of a Benny Oliver in knocking a defenseless Negro from a restaurant stool in Jackson, Miss., and then kicking him in the face as he lies on the floor is easily understood. That is the action of a brute, of which the nation seems to have an oversupply.

What is not so easily understood is the decision handed down the same afternoon by Federal Judge Seybourn H. Lynne in Birmingham, Ala., upholding "discreet desegregation" in the Birmingham public schools.

Judge Lynne's decision probably means that at most only two or three Negro children will be admitted to formerly all-white segregated schools in Birmingham this fall. Is that the "equal protection of the laws" to which the Constitution of the United States says all citizens are entitled?

Judge Lynne said in his decision that he wanted to wait until the "good faith" of the Birmingham Board of Education "has been tested." This was the Board of Education that summarily suspended or expelled over 1,000 Birmingham Negro schoolchildren for having attempted peacefully to march there in an appeal for a redress of their many grievances, of which the segregation of schoolrooms is only one. How much testing is necessary?

When Negroes are asked to be patient, to wait, to fight their battle for equality in the courts and not in the streets, it is to decisions such as that of Judge Lynne that they point. In this, they ask, what you want us to wait for? How can one answer that question affirmatively in the light of the 1954 and 1955 decisions of the United States Supreme Court ordering desegregation of the schools?



Judge Raymond M. Lyons set a hearing to show cause why the order should not be issued for 10:00 a.m., June 3.

*Press Intelligence, Inc.*

WASHINGTON 1, D. C.

MEMPHIS, TENN.  
PRESS-SCIMITAR

c. 139,680

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Date: MAY 29 1963

**Negro May Get U. S.  
Job in Birmingham**

By Associated Press

BIRMINGHAM, Ala.—U. S. Atty. Gen. Robert Kennedy is considering appointment of a negro to fill a vacancy in the U. S. attorney's office here, the Birmingham News said today.

The News identified the negro as an attorney, W. L. Williams, an unsuccessful candidate in April for city councilman. He has been active in several integration suits, including one to desegregate schools.

MAY 29 1964

## Judge Bars U. S. Suit in Schools Case

BIRMINGHAM, Ala., May 29 (AP).—Federal Judge H. Hobart Grooms today held that the Justice Department does not have the right to sue for desegregation of Madison County and Huntsville schools.

The Justice Department filed suit in January seeking to integrate schools in federally impacted areas.

Judge Grooms used as precedent an identical suit filed in Mississippi which was dismissed last month. A similar suit has been filed against the Mobile (Ala.) school systems.

"I am of the opinion that the United States is without authority to maintain this action and, further, that the complaint does not state a claim upon which relief can be granted," Judge Grooms said.

As late as May 13, 1963, the judge said, the Fifth Circuit Court of Appeals refused to hold that the United States could sue under the Fourteenth Amendment to the Constitution.

Madison County School Board attorneys had argued that the Justice Department could not bring such suit on behalf of individuals.

WASHINGTON EVENING STAR

MAY 29 1963

## Negroes to Appeal Alabama Ruling

BIRMINGHAM, Ala., May 29 (AP).—Attorneys for Negroes seeking to desegregate city schools prepared today to appeal a Federal judge's ruling which in effect gave local authorities more time to integrate the schools.

United States District Judge Seybourn H. Lynne denied yesterday a requested injunction against school segregation and said that the Negroes had not exhausted the provisions of the Alabama pupil placement law.

A Negro attorney, Orzell Billingsley, Jr., said the decision would be appealed immediately to the 5th United States Circuit Court of Appeals.

Judge Lynne gave the school board a chance at voluntary integration, but warned that he would order the board to draw up a desegregation plan if the pupil placement law was not applied without discrimination.

Judge Lynne said school authorities had assured him they would comply with the law, a 1956 statute which gives school boards almost unlimited pupil assignment powers.

MAY 29 1963  
MAY 29 1963

A8 Wednesday, May 29, 1963 THE WASHINGTON POST

# Birmingham Given Chance At Voluntary Desegregation

By Don McKee

BIRMINGHAM, Ala., May 28 (AP)—Federal Judge Seymour H. Lynne told Birmingham school officials today that he will order them to draw up a desegregation plan unless they apply a pupil assignment law without discrimination this fall.

Giving the officials a chance at voluntary integration, Lynne denied a requested injunction against school segregation but said he would hear immediately any further complaints.

Lynne said school authorities had assured him they would comply with the law.

"This court will not sanction discrimination by them in the name of the placement law," he said, "but it is unwilling to grant injunctive relief until their good faith has been tested."

Lynne held that Negroes seeking a sweeping injunction against separate schools had not exhausted remedies under a 1956 statute that bestows almost unlimited pupil assignment powers on school boards.

Negro Attorney Orzell Billingsly Jr. said the decision would be appealed immediately to the 5th U. S. Circuit Court of Appeals.

School Board members and Supt. Theo R. Wright withheld comment. Their attorney, Reid Barnes, said earlier he was confident that the officials would not violate any court decision.

## 1958 Decision Cited

Basing his opinion on the validity of the State placement law, Judge Lynne followed a 1958 Federal Judge panel's decision that the law "furnishes the legal machinery for an orderly administration of the public schools in a constitutional manner by the admission of qualified pupils upon a basis of individual merit without regard to their race or color."

The U. S. Supreme Court has affirmed the lower court

ruling on the placement law, with a warning against unconstitutional use of the statute.

Judge Lynne ruled that the placement law must first be tested before he will consider ordering desegregation. There is adequate time before the fall term for processing of assignment or transfer applications, he said.

Citing decisions of the 4th U. S. Circuit Court of Appeals, which upheld a similar North Carolina law, Lynne said the initiative in integration lies with the pupil, not with school authorities.

He said the uncontroverted evidence was that no Negro child has sought transfer to a white school "and pursued the remedies afforded by such statute."

"Their reluctance to take the initiative in bringing about the integration of public schools stems from something more than blind adherence to tradition."

## "Very Strong Opposition"

"There is undisputed evidence in this record that there is a 'very strong opposition' on the part of 'citizens of all races' to the mixing of the different races in the schools."

In addition, Lynne said, all witnesses closely associated with the school system had testified that "indiscriminate mixing of the races would create many problems that would be detrimental to the interests of both groups."

However, Lynne said he obviously was bound by the 1954 Supreme Court decision striking down separate schools as inherently unequal. The Court said Monday that it would not tolerate undue delay in school integration.

"But the problem does not end there," said Lynne. "For the district courts have been vested with and are expected honestly and fairly to exercise discretion in the enormous task of desegregating public schools."

He ruled in the 1960 suit of

James Armstrong, who brought the action for his four children and all others similarly situated. Lynne dismissed two other parents from the same suit and threw out a 1962 suit of similar nature.

MAY 29 1963

## Birmingham Negro Pupils Denied Integration Writ

By JACK LANGGUTH

Special to The New York Times

BIRMINGHAM, Ala., May 28—Federal Judge Seymour H. Lynne refused today to order the total desegregation of the Birmingham public schools. He said the "good faith" of the city's school board on the desegregation issue had not yet been tested.

The judge warned Birmingham's school officials, however, that if later evidence showed that Alabama's pupil placement law was being used to continue segregation, he would "be compelled to order the submission of a desegregation plan."

The judge said attorneys for four Negro students in the case could apply for transfer to white schools before the next school term begins in September.

### 2 Children of Minister

If the students are refused transfer and wish to charge that the placement law is being used against them unconstitutionally, the judge said, he will hear their case after five days' notice to the school board.

Two children of the Rev. Fred L. Shuttlesworth, a Negro leader in this city's recent mass demonstrations, were originally plaintiffs in the case. But the judge found that they had left Birmingham schools and did not intend to return. The Shuttlesworth family now lives in Cincinnati.

The four other plaintiffs in the case are the children of James Armstrong Sr., a Birmingham barber. They presently attend Negro schools in this city's segregated system.

An attorney for the Armstrong children, W. L. Williams, said he was not happy with the decision. He said he would consult other attorneys in the case.

Continued on Page 16, Column 2

## Judge Denies Integration Writ For Birmingham Public Schools

Continued From Page 1, Col. 6

and the Armstrong family before deciding whether to appeal to the United States Court of Appeals for the Fifth Circuit or to seek the "administrative remedies" outlined by Judge Lynne.

"We had been hoping to provide evidence that would satisfy the judge that he had to issue an injunction for massive desegregation at this time, not go on a student-by-student basis," Mr. Williams said.

### Judge's Decision

In his ruling, Judge Lynne said "it graphically appears" from the testimony that Dr. Theo. R. Wright, Superintendent of Schools, and the city's Board of Education "have operated a segregated school system based upon race in the past, are doing so now, and have formulated no plans to discontinue such an operation."

But Judge Lynne also noted that no Negro child had ever applied for transfer to any school designated as white under Alabama's School Placement Law.

The placement law was introduced by Birmingham's newly seated Mayor, Albert Boutwell, in 1955, when he was a State Senator. In 1958 the United States Supreme Court found the act constitutional on its face, but warned school boards not to use it as a device to avoid desegregation.

Under the act, students must meet 17 criteria before transfer to another school can be approved. Mr. Williams called some of these criteria—such as the availability of rooms and qualified teachers—"part of any good administration of a public school system."

But he said other categories—whether the transfer might

bring friction or ill will to the school and the "relative mental energy" of the student applying for transfer—had been drafted to perpetuate segregation.

Dr. Wright took note of these criteria today and said he could not predict whether the Armstrong children would be accepted by a white school under the Boutwell Act. "They will have to go through the administrative remedies as the judge suggested," Dr. Wright said.

Judge Lynne said he had been assured by Dr. Wright and the Birmingham Board of Education that "discreet desegregation would be much less disruptive than massive integration."

They had further assured him that they were prepared to comply with the placement law when "any individual sets the administrative machinery in motion," the judge said.

Judge Lynne's ruling continued: "This court will not sanction discrimination by them in the name of the placement law, but it is unwilling to grant injunctive relief until their good faith has been tested."

In a second decision today, the action of Agnes Nelson, 16 years old, and Oswald Nelson, 12, against the Board of Education was separated from the Armstrong suit and dismissed.

Judge Lynne said the Nelson children were now in school in Michigan. He said a supplemental complaint might be filed if the students should return to Birmingham.

### Immediate Appeal Reported

BIRMINGHAM, Ala., May 28 (AP)—Orzell Billingsly Jr., another attorney for Negro plaintiffs in the desegregation case, said today that Judge Lynne's decision would be appealed immediately to the United States Court of Appeals for the Fifth Circuit.

MAY 29 1963

# FOREIGN REACTION TO RIOTS IS MILD

## Restraint Over Birmingham Is Encouraging to U.S.

By HEDRICK SMITH  
Special to The New York Times

WASHINGTON, May 28—Although the United States is subject to heavy foreign criticism for its treatment of Negroes, officials here report a new understanding overseas of this country's racial problem. State Department and United States Information Agency officials consider racial discrimination the United States' chief propaganda problem abroad, especially in Africa. But they have found some encouragement in the foreign reaction to recent racial tension in Birmingham, Ala.

They report that foreign leaders and newspapers have tempered their criticism with the realization that the problem is complex and that the Federal Government is genuinely trying to solve it.

"There is much more understanding than five or six years ago, say at the time of Little Rock," said Lowell Bennett, Director of Public Information for the U.S.I.A.

The reaction at the recent African summit conference is cited as an example. Leaders of 30 nations passed a relatively mild resolution only 15 days after rioting in Birmingham reached its peak.

### Appreciation Expressed

The resolution voiced "deep concern" at "measures of racial discrimination, particularly in the United States of America."

But it went on to express "appreciation for the efforts of the Federal Government of the United States of America to put an end to these discriminatory practices."

Senou Touré, the President of Guinea, took a similar tone at a news conference after the summit. He said:

"We cannot say that the American people are racist. Racism exists everywhere, even in Guinea."

"We know that in the United States a fight is being organized by the Government of President Kennedy. We approve without reserve this policy of President Kennedy."

### Rusk Remarks Noted

Officials said, however, that this reaction in no way diminished the importance of Secretary Dean Rusk's comments on the racial issue yesterday.

Mr. Rusk told a conference of civic leaders that racial discrimination left this country running a race against Communism "with one of our legs in a cast."

The secretary, a native Georgian, was speaking from strong personal conviction, his aides said. His remarks were prompted, they explained, more by the pressure of domestic events than by specific foreign policy problems.

"He's talked about this before," one official said. "But this is the hardest and harshest ever been."

Surveys by the U.S.I.A. indicate that pictures showing police dogs lunging at demonstrators and fire hoses turned on women and children in Birmingham were prominently displayed by newspapers in Africa, Asia and Europe. One study by the agency said:

"African media have devoted a large volume of comment and reportage to Birmingham, with Ghanaian comment being especially critical and caustic. But potential comment in other countries of Africa has not materialized to any degree."

"Cumulatively, though, there is no doubt that pictures of police brutality, particularly the use of police dogs, has militated strongly against the U.S. image."

### Marred Cooper Coverage

The Birmingham situation even "tarnished" foreign coverage of the space flight by Maj. L. Gordon Cooper Jr., officials said. In at least three African countries, reporters said they were less interested in the Cooper mission because of the Birmingham disorders.

The Communist press capitalized on the turmoil in the Alabama city. For one week, officials said, roughly one-fourth of the Moscow Radio foreign coverage was devoted to Birmingham. On May 12 alone, the Moscow Radio devoted 33 commentaries to the Birmingham situation.

On May 10, an editorial in the Tanganyikan newspaper, Mwafrika, asked if the United States might be helping South Africa secretly while announcing publicly that it opposed segregation.

In India, two Calcutta newspapers—Amrita Bazar Patrika and The Hindustan Standard—criticized President Kennedy for not moving more quickly into the Birmingham situation.

Both suggested that the fear of losing votes was restraining the President. Similar statements were made in news media of Ghana and Indonesia.

"While critical of the situation, a number of European newspapers commented that the United States was making progress on civil rights, a remark voiced by The Guardian of Hongkong, Burma and Usus of Ankara, Turkey."

### Troop Movement Hailed

In India, the Hindustan Times ran a cartoon showing a member of the Klu Klux Klan sitting on the shoulder of the Statue of Liberty, trying unsuccessfully to snuff out her torch.

Radio Reloj in Costa Rica and The Indian Express of Bombay, among others, praised the President for moving Federal troops to Alabama.

Jannabhooni, a newspaper in Calcutta, ran an editorial saying:

"No one should use the events of Birmingham to discredit

America. On the contrary, America should get sympathetic support in the fight against racial discrimination."

Some Nigerian newspapers, sharply critical of the Birmingham situation initially, did a turn-about when the settlement was announced and Federal troops were sent to Alabama.

"Kennedy does it fine: U.S. Federal troops off to Alabama," was one headline.

### Jurists Assail Race Discard

Special to The New York Times  
GENEVA, May 28—The International Commission of Jurists expressed "strong condemnation" today for attempts by segregationists in the United States to thwart judicial decisions establishing equal rights for Negroes.

At the same time, the commission praised the "American attack on racial segregation" through the courts as an "exemplary illustration" of how legal processes can be used to effect "profound social change."

The commission's comments on the racial problem in the United States were contained in a statement issued on the recent disorders in Birmingham, Ala. The events there, it said, are viewed with "deep concern and disgust."

The commission said it regarded the attempts to frustrate court decisions on Negro rights "in some part" of the United States with even deeper concern because they are found in a land to which the free peoples of the world look for inspiration and guidance.

This concern, it continued, is in no way diminished because the "blemishes are concentrated in one part of the country and are viewed with disfavor and repugnance by the vast majority of those who live in that land."

A private organization recognized by the United Nations, the commission is supported by about 40,000 members of the legal profession in most of the world's non-Communist countries.

### Selassie Hails U.S. Efforts

ADDIS ABABA, Ethiopia, May 28 (UPI)—Emperor Haile Selassie today praised President Kennedy's efforts to combat racial discrimination in the United States.

The Emperor told newsmen he would visit Mr. Kennedy in

Washington later this year, but he specified no date.

He said that a resolution on the Birmingham situation passed by the recent African summit conference was softened at the instigation of Liberian President William V. S. Tubman.

"I am of the same opinion," Mr. Selassie said, "in view of the fact that the United States Government is doing its best to discard racial discrimination."

## Ruling Waited In Birmingham Desegregation

Lawyer Expects  
School Board to  
Abide by Verdict

BIRMINGHAM, Ala., May 28 (AP).—A Federal judge rules today on Negro demands that public schools in this racial trouble spot be desegregated. An attorney for the city school board said he believes the board will abide by the judge's decision.

"The school board certainly is not going to violate any de-

Negro Program Rejected, Protest  
Likely in Jackson. Page A-7

cision of the court, in my opinion," Attorney Reid Barnes said.

United States District Judge Seybourn H. Lynne has had two suits under consideration since last October.

Only yesterday, the United States Supreme Court said it will not tolerate avoidable delay in the carrying out of its 1955 order for all deliberate speed in school integration cases.

### Injunctions Sought

Both suits before before Judge Lynne requested injunctions barring the operation of segregated schools in Birmingham.

The first suit was filed in June, 1960, by the Rev. F. L. Shuttlesworth, James Armstrong and Vann English on behalf of their children. The second was brought in June, 1962, by T. N. Nelson for his two children.

Mr. Nelson's suit said he made no request for transfer of his children to white schools under Alabama's pupil placement law because "the remedy there provided is inadequate."

His suit said the transfer of some Negro children to white schools would not achieve the "reorganization of the dual racial school system into a unitary nonracial system."

### Authority for Board

The pupil placement law, upheld by the United States Supreme Court as constitutional on its face, gives broad authority to school boards. It permits for consideration in transfer or assignment applications, these factors:

Transportation facilities; the effect of admission of new pupils on established or proposed academic programs; scholastic aptitude and relative intelligence or mental energy or ability of the pupil; the psychological qualification of the pupils for the type of teaching and association involved;

The possibility of friction, disorder or breaches of the peace, or ill will or economic retaliation; the home environment of the pupil; the maintenance or severance of established social and psychological relationships with other pupils and teachers; and

The morals, conduct, health and personal standards of the pupil.

### Rejected in 1959

Mr. Shuttlesworth's children attempted in 1959 to enroll in a white school, but they were rejected along with seven others. A school official said if the pupils wished to pursue their applications, the next step was to request a board hearing.

L. Fraser Banks, who was school superintendent at that time, said he felt a transfer would not be in the best interest of the children involved. Pupil placement tests were administered the applicants under the state law.

Two white women Mrs. John Fuller and Mrs. L. W. Fiquett, said yesterday they had not repeated failure in efforts to gain support for peaceful school desegregation.

"Everybody is afraid to a degree that is absolutely fantastic," Mrs. Fuller said. "There are still too many people who are afraid to do anything active toward peaceful desegregation."

Mrs. Fiquett said a group she headed met once, then disbanded because of "so much opposition and demoralization."



## Struggle Deepens

# 3-Prong Push Moving In On Segregationists

(By United Press International)

A federal judge rules today on two suits seeking integration of public schools in Birmingham, Ala.

And the city of Greensboro, N. C., faces further racial demonstrations unless its mayor takes steps by tomorrow to desegregate public facilities.

### 3-PRONGED ASSAULT

These were the latest developments in the anti-segregation movement in the South following yesterday's three-pronged assault by the courts, the federal government and Negro leaders.

At issue in Birmingham is the Alabama pupil placement law, which gives school boards broad authority to assign students. Negro plaintiffs claim it is an instrument of classroom segregation.

The suits, under consideration by Federal District Judge Sebastian Lynne, seek either an injunction against segregation or an order compelling the school board to produce a binding plan for desegregation.

### RACIAL

(Continued on Page Five)

### 3-PRONGED ASSAULT

In Greensboro, Negro spokesmen have demanded "concrete positive action" by Mayor David Schrenk and the city council, under threat of more demonstrations such as brought eight days of protests earlier this month and the arrests of more than 1,300 Negroes.

The U.S. Supreme Court instructed Memphis, Tenn., to begin desegregating its recreational facilities "promptly" and warned the South to quit dragging its feet on school desegregation.

The high tribunal, in another case, dismissed a complaint by Alabama Gov. George Wallace that President Kennedy had sent troops illegally into his state for possible riot control duty at racially troubled Birmingham.

The government through U.S. marshals, yesterday sought to serve Wallace with a subpoena to appear at a federal court hearing in Birmingham Monday. The hearing is aimed at preventing Wallace from interfering—as he has vowed to do—with the integration of the University of Alabama next month.

The marshals served the subpoena papers on a Negro maid at the governor's mansion in Montgomery, Ala., and Justice Department officials in Washington said this constituted valid notification of the governor. Wallace said, however, the action was "ridiculous" and without legal foundation. Sources close to Wallace said he would not appear at the hearing.

Medgar Evers, Mississippi field secretary for the National Association for the Advancement of Colored People (NAACP), said racial demonstrations would be staged in Jackson. But he declined to say when they would begin.

Greensboro, N.C., integration leaders gave city officials until tomorrow to take "concrete positive action" towards eliminating segregation or face a resumption of demonstrations. Negroes have demanded across-the-board desegregation of all public facilities.

There were these other racial developments:

Negroes asked Richmond, Va., officials to appoint a biracial committee to study racial problems.

Six persons, including three policemen, were injured in a battle between workmen and Negroes picketing against alleged bias at a school construction site in Philadelphia yesterday.

A biracial committee at Nashville, Tenn., said it would meet "as soon as possible" to consider racial issues in the Tennessee capital.

In Washington yesterday, Atty. Gen. Robert F. Kennedy urged Southern theater owners to desegregate before Negroes demonstrate for such action. Kennedy said such demonstrations could erupt into violence. A theater spokesman had told newsmen earlier that each owner would have to make his own decision regarding desegregation.

Negro leaders met with city officials at Jackson, Miss., yesterday but walked out of the meeting after Mayor Allen Thompson reiterated his refusal to appoint a biracial committee to tackle civil rights problems.

Press Intelligence, Inc.

WASHINGTON 1, D. C.

BOSTON, MASS.  
TRAVELER

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Front Page Side Page Other Page

Date: MAY 28 1963

# Judge tosses out U.S. suit to mix schools

BY GEORGE BIGGERS, News staff writer  
U. S. District Judge H. H. Grooms today threw out a Justice Department petition seeking desegregation of Madison County and Huntsville schools.

Grooms said the government's case "illustrates the rule that the hand that extends the benefaction may also attempt to control its use."



JUDGE GROOMS

Grooms, citing an earlier case in Mississippi identical to the Huntsville petition, said the government had no right under the Constitution or by legislative action to seek an injunction to ban racial school segregation.

He said the suit, in effect, represents an attempt by the executive arm of the government "to use the judicial arm to bypass the legislative arm in contravention of the principal of separation of powers."

"EXCEPT in the field of voting rights," the judge noted, "the Congress has granted the government no authority to bring such a suit as this. In fact, it has refused to grant such permission." A Justice Department spokesman indicated the decision would be appealed either to the Supreme Court or the Fifth Circuit Court of Appeals.

He said, however, there had been no "official" determination from the attorney general's office.

The Justice Department brought suit last January against the Madison County and Huntsville school systems alleging that segregation in the schools violated the civil rights of the Negro children of federal employees working at Redstone Arsenal.

Grooms said he was of the opinion the United States was "without authority to maintain this action" and that the complaint "does not state a claim upon which relief can be granted."

He noted that as late as May 13, the Fifth Circuit Court of Appeals had refused to hold that the government can sue under the 14th Amendment to the U. S. Constitution.

"THIS COURT WILL not presume to take upon itself the removal of landmarks which are so firmly established," Grooms said. "Repeatedly, the Congress has refused to take any action to deprive the local authorities of the control over their school systems," the judge said, "and it has rejected attempts to attach a desegregation rider on bills granting or purporting to grant federal aid to education."

He said the court takes judicial notice of the fact that the government has been "sidetracked more than once by such attempts."

## U. S. mixing

Continued from Page 1

knowledge that the general bill for federal aid to education has been "sidetracked more than once by such attempts."

GROOMS SAID THE theory of attorney general is a right to sue the government suit would give a Negro child of federal personnel "preferred status" over all other school children, simply because of his color. He noted the petition was an attempt to sidestep the Alabama placement law which played an important role in a refusal by Judge Seymour H. Lymn to order immediate desegregation of Birmingham schools.

Grooms said also that Alabama law does not require integration but only abolishes discrimination. He said until the Negro children show they have been discriminated against because of their race or color, the placement act would be applicable.

"Although not necessary to this decision, it may be amiss to remark that this case illustrates the rule that the hand that extends the benefaction may also attempt to control its use."

"Our ties to Washington for help," the judge continued, "have been so loud that they have made the claims to local control and states' rights. The motions to dismiss are due to be granted."

The suit against the Mobile county combined system is pending hearing on a motion by the school board to dismiss the action.

In hearings on a motion to dismiss the Madison suit Wednesday, a Justice Department attorney contended the schools' officials have violated certain "assurances" which they made to the government in applying for federal aid.

AID UNDER THE impacted areas program is granted by the U. S. commissioner of education when over-crowded school conditions result from the coming of large military installations to a city, county or state.

St. John Barrett, attorney for the department's civil rights division, claimed that the assurances given by the school boards

in accepting federal aid included a promise of "equal rights" to all children of federal employees.

He noted that this assurance was conditioned on whether or not state law requires segregation or integration.

Barnett told the court that Alabama law no longer requires segregation, but the Madison County and Huntsville school boards still enforce it. He said this was a violation of Alabama law and thus, a breach of the boards' assurances to the government.

NOT TRUE, said Ralph Ford, attorney for the Madison County Board of Education.

Ford, arguing for both schools, contended that although state law may no longer require segregation, there are no statutes requiring integration.

He went on to point out that Congress had not yet given the attorney general a right to sue for alleged deprivation of civil rights in behalf of its citizens.

He added that since 1950, Congress has "deliberately failed and deliberately refused" to authorize the U. S. to seek injunctive relief except in the cases of voter discrimination.

FORD HELD THAT since the government is not a person in the meaning of the 14th Amendment to the Constitution, no protection clause it could not be deprived of its civil rights.

The Justice Department contended in the suit that Negro children of Redstone Arsenal employees and other government personnel working in the Space City have been deprived of their civil rights.

The government attorneys said

Congress has granted the attorney general authority to seek injunction when segregation hampers interstate commerce. He said the legislative action could be compared to school segregation under the "impacted areas" program.

He pointed out that the school systems have received more than \$6 million from the government for operation of 20 county and city schools.

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BIRMINGHAM, ALA.  
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Date: MAY 14 1963

## JFK Ignores King Demand For Escort

WASHINGTON (AP) — A proposal by some Negroes that President Kennedy personally escort two Negro students into the University of Alabama next month has attracted little interest at the White House.

Officially, administration spokesmen declined to say anything today about such suggestions. Sometimes, official silence at the White House cloaks backstage maneuvering. In this case, however, there seems to be no evidence to indicate that the suggestion was receiving serious consideration.

The idea has been broached publicly by the Rev. Martin Luther King, a leader of the desegregation movement, and privately by some members of a Negro group that met Friday with Atty. Gen. Robert F. Kennedy in New York.

The President is known to be deeply concerned about the possibility of an integration crisis in June at the University of Alabama. However, he said at his news conference last Wednesday that he believes questions of this kind should be dealt with through the courts, with state and local officials maintaining law and order.

The President said nothing to indicate he was contemplating personal involvement, beyond what he described as his obligation to enforce federal court orders even when this requires the use of federal troops and marshals.

U.S. Dist. Judge H. Hobart Grooms has ordered two Negroes admitted on June 10 to the University of Alabama—one at the main campus at Tuscaloosa and one at the school's Huntsville branch.

Alabama Gov. George C. Wallace, an outspoken segregationist, took the judge's order as the occasion for repeating a pledge personally to bar the Negroes at the doors of the university.

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NEWS

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Date: MAY 28 1963

## Gov. Wallace To Defy U.S. On Subpoena

Montgomery, Ala. (UPI) — Closely guarded by state troopers, Alabama's Gov. George Wallace Tuesday prepared to defy a federal subpoena and refuse to attend a federal hearing aimed at preventing his interference in integration of the University of Alabama.

A source close to Wallace said the scrappy segregationist would not "under any circumstances" appear at the hearing next Monday in Birmingham.

United States marshals Monday served papers on a Negro maid at the mansion in an effort to assure the governor's court appearance.

The marshals declined to say if serving of the papers to the maid constitutes bona fide service on the governor, but in Washington a Justice Department spokesman said it did.

### Maid Takes Papers

Apparently stymied by the troopers, marshals Henry Floye and Jack Johnson handed the governor's maid, Martha Davis, subpoena papers at the back door of the mansion.

A state trooper on guard at the governor's ante bellum home said Wallace would not accept service from a member of his staff.

Wallace said the maid is a convict who works at the executive mansion and whose civil rights were removed because of a felony conviction.

"It is ridiculous that they (the marshals) served a Negro maid in my house," Wallace said. "Civilly, she's dead."

A source close to the governor said Wallace would not attend the hearing because he contends the federal court does not have jurisdiction in the case and for him to attend the hearing "would make it appear that the governor recognizes such jurisdiction."

The source said, however, that

(See ALABAMA'S, Page 5)

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HOUSTON, TEXAS  
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Date: MAY 28 1963

## Alabama's Governor Snubs U.S. Subpoena

(FROM PAGE 1)

Wallace's attorneys could appear in the federal court as a "special party" and make motions for dismissal of the case on grounds the court has no jurisdiction.

Wallace flew to Decatur Monday night and was ringed by 18 state troopers when he stepped off the plane. The troopers maintained a guard throughout the evening, although Wallace dismissed some of them.

A suit, filed last Friday by the Justice Department, seeks to

bar Wallace from carrying out promised intervention when Negroes Vivian Malone and David McGlathery attempt to enroll at the University of Alabama next month.

### Huddles With Panel

Wallace was closeted with the state sovereignty committee most of Monday. First he huddled at a downtown hotel and then in his inner office on Capitol Hill.

Reliable sources said Wallace and the sovereignty committee, comprised of top constitutional lawyers, discussed two pressing

matters:

What route to take in appealing federal Judge H. Hobart Grooms' refusal to delay admission of two Negroes to the all-white University of Alabama June 10.

What action to take at the hearing Monday to show cause why Wallace should not be enjoined from interfering with the scheduled integration of the University campus at Tuscaloosa by Miss Malone and the university extension at Huntsville by McGlathery.

The governor has pledged to physically block the two from entering the all-white school.

In Birmingham, 90 miles to the north, a federal court ruling was slated Tuesday on two suits aimed at integrating public schools in the Deep South city.

# Marshals Ask Negro Maid To 'Serve' Wallace

BY THE ASSOCIATED PRESS  
United States marshals, prevented by a heavy guard of state troopers from serving legal papers on Alabama's Governor George Wallace yesterday, gave the papers instead to a Negro maid at the mansion in Montgomery.

State troopers had kept the governor from being served with official notice that a suit has been filed seeking to prohibit Wallace from carrying out his promised intervention when two Negroes try to enroll in the University of Alabama.

THE DEPUTY marshals, who waited vainly for two hours in a Montgomery hotel lobby where Wallace was in a conference, went back to the governor's mansion. A Negro maid, Martha Davis, answered the door and the marshals handed her the papers with the admonition that they be given to the governor.

In Washington, the Supreme Court rejected Wallace's suit to bar use of Federal troops in Birmingham. The governor had asked the high tribunal to declare that President Kennedy violated the Constitution by sending troops into the

state for possible riot duty in Birmingham's racial troubles.

In other action yesterday, the Supreme Court called for desegregation of parks, playgrounds and other city recreational facilities in Memphis, Tenn.

THE COURT ruled on an appeal by 11 Negroes who said the principle of allowing time for desegregation of public schools, as fixed by the Supreme Court in 1954, should not be applied to use of public recreational facilities.

Meanwhile, southern movie theater owners were told by Attorney General Robert F. Kennedy in Washington that they should anticipate desegregation problems and try to solve them on a town by town basis.

Edwin Guthman, Kennedy's public information aide, said the owners of about 50 per cent of all movie houses in the South were represented at the 90-minute meeting.

The attorney general also met briefly with James H. Meredith, the first Negro ever knowingly enrolled at the University of Mississippi. Meredith said Kennedy called him Sunday night and invited him for a visit.

MEREDITH SAID he told Kennedy that he thought stronger civil rights legislation should be passed, "the kind that would affect civil rights development and more opportunities for Negroes."

In Albany, Ga., 16 integrationists began a jail fast which their attorney says will last until a solution of the southwest Georgia city's racial problem is in sight.

Four white persons and 12 Negroes are among the group which have been in jail for nearly three weeks. They are among 129 demonstrators arrested May 7 on charges of disorderly conduct in Albany.

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INDIANAPOLIS, IND.  
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Front Page Edit Page Other Page

Date: MAY 28 1963

IN PHILADELPHIA, six persons including three policemen were injured slightly in a scuffle at picket lines posted at a school construction site by Negroes charging job opportunity discrimination.

The scuffling occurred when pickets closed in on a union representative trying to reach one of three entrances where demonstrators marched. Ten policemen moved in and in the ensuing fracas three policemen, the union representative and two pickets suffered cuts.

At Birmingham, Ala., a school board spokesman indicated board members will comply with whatever decision is rendered on suits aimed at desegregating the city's schools. "The school board certainly is not going to violate any decision of the court, in my opinion," said attorney Reid Barnes.

U.S. District Judge Seymour H. Lynne has said he will file his ruling today.

AT GREENSBORO, N.C., an attorney for 81 Negro demonstrators won postponement of their trespass cases to June 10.

A group of white youths at Tallahassee, Fla., carried out a counter demonstration against Negroes picketing a segregated movie theater. The seven white youths carried a sign which said "Remember Ole Miss" and "Forced Race Mixing Is Communism." About 50 members of the Congress of Racial Equality were picketing the theater.

In Washington, Secretary of State Dean Rusk said the U.S. is running in the international race against the Communists "with one of our legs in a cast" because of discrimination at home.

*Press Intelligence, Inc.*  
WASHINGTON 1. D. C.

BOSTON, MASS.  
GLOBE

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Front Edit Other  
Page Page Page 4

Date: MAY 28 1953

## Gov. Wallace Evades Summons

MONTGOMERY, Ala. (AP) — U.S. marshals tried in vain Monday to serve papers on Gov. George Wallace in an integration suit. They gave them instead to a maid. State troopers had kept the governor himself from being served with official notice that a suit has been filed seeking to prohibit him from interfering with integration at the University of Alabama. The troopers accompanied Wallace from the governor's mansion to a downtown hotel for a legal conference, with two U.S. marshals close behind. After waiting for two hours in the hotel lobby, the Federal officers conferred with the governor's aides, then went back to the mansion. A maid, Martha Davis, answered the door and the marshals handed her the papers with the admonition to be sure that they were handed to the governor. The suit, filed by the Justice



American Bride in Japan

The former Edith Hanson, 23, of Oklahoma City drinks sake during marriage to Teruo Takahashi, 28, near Osaka, Japan. They met at Osaka University. (AP Photo)

## Crime Reputation

Violence May Erupt in Mississippi Capital

# Second Birmingham Brews in Jackson

5/28/63

By JACK STEELE  
Memphis-Herald Staff Writer

**JACKSON, Miss., May 28**—This state capital is about to become a second Birmingham.

The state was set here today for Negro mass demonstrations patterned after those which erupted into riots in Birmingham to start within a day or two.

And such demonstrations are almost sure to lead to violence in Jackson, a city whose white officials and businessmen are even more firmly glued to absolute segregation than were those in Birmingham.

The idea was cast yesterday when 13 Negro ministers, representing the city's 50,000 Negroes, stalked angrily out of a meeting with Mayor Alton C. Thompson and the City Council.

It had been billed as a "negotiating" session on Negro grievances.

Instead, the city's smiling mayor told the 13 ministers he never would name a biracial committee for the city or even consider an eight-point desegregation plan they were presented to propose.

Mayor Thompson, a carbon copy of Mississippi's Gov. Ross Barnett, offered no explanation.

He charged that "outside agitators" and "pressure groups" were trying to lead Jackson's Negroes to stage "unlawful demonstrations." He warned that any Negroes who participated would not only be arrested, but also might lose their jobs.

The Mayor appealed to the Negro leaders to influence their people to continue to accept "custom and tradition," segregation, which he said had made Jackson "the most glorious and wonderful city in the world."

The state's first state minister walked out of the meeting at City Hall after the spokesman told the Mayor his stand made it useless for them to waste your time.

The Rev. F. A. Mack, chairman of the Interdenominational Ministerial Alliance, politely but firmly told Mayor Thompson he was unaware of "this satisfaction, unrest, and tension" in the Negro community here. He told the Mayor the Negro demands were not "threats" and had not come from the NAACP.

"The mass of Negro citizens at least 75 per cent of them are not satisfied. They will stand back of what we ask," he said.

Within half an hour of the meeting's breakup, a forecast that it would lead to "direct action"—demonstrations—came from Medgar Evers, Mississippi field secretary for the National Association for the Advancement of Colored people.

Mr. Evers told me:

"We have been trying in good faith for two weeks to get some kind of negotiations started in Jackson. Now the last hope seems to be gone. Obviously we can't accept the Mayor's speech and his child psychology."

Mr. Evers said many "work shops" already had been held in Jackson's Negro churches to train students and adults in "non-violent" demonstrating.

The final decision on demonstrations in Jackson is expected to be made after a Negro mass meeting tonight at the Pearl Street African Methodist Episcopal Church.

The Negro ministers will report to the Negro community on the abortive session with the Mayor and Council.

The only faint hope of heading off the demonstrations here rested with a small group of white ministers who have been meeting secretly with Negro leaders. They met yesterday with the Chamber of Commerce, but were informed it would stand behind the Mayor.

## SERVICE ON 'DEAD' MAID

# Gov. Wallace Tries to Bury U. S. Subpena

**MONTGOMERY, Ala., May 28 (UPI)**—Gov. George Wallace, shrugging off a subpoena served on a "civilly dead" household servant, apparently intends to boycott a Federal hearing aimed at preventing his interference in next month's integration of the University of Alabama.

A source close to Mr. Wallace said the scrappy segregationist would not "under any circumstances" appear at the hearing Monday in Birmingham.

U.S. marshals yesterday served papers on a Negro maid at the executive mansion in an effort to assure the Governor's court appearance.

Justice Department officials in Washington indicated this constituted proper service.

Mr. Wallace disagreed. He said the maid is a convict whose civil rights were removed because of a federal conviction.

"Civilly," he said, "she's dead."

## ATTORNEYS, YES

A source close to the Governor said he contends the Federal court does not have jurisdiction in the case and for him to attend the hearing "would make it appear that the Governor recognizes such jurisdiction."

The source said, however, that Mr. Wallace's attorneys could appear in the court as a "special party" and make motions for dismissal.

Mr. Wallace flew to Davao last night and was ringed by 18 state troopers when he stepped off the plane. The troopers maintained a guard throughout the evening, although Mr. Wallace dismissed some of them.

Another legal battle was a loser for Gov. Wallace. The Supreme Court yesterday rejected his complaint that President Kennedy acted illegally by sending Federal troops to Alabama during the recent Birmingham race violence.

## BLOW TO GRADUALISM

Meanwhile, the Court gave Negroes fighting city and state-imposed racial barriers some powerful support.

Justice Arthur J. Goldberg, junior member of the court, did the talking for a unanimous bench in a decision rejecting gradual desegregation of recreation facilities in Memphis, Tenn.

Memphis was relying on the "deliberate speed" concept which the high court built into public school desegregation in 1955. The city said slow motion was necessary to avoid racial disturbances.

Justice Goldberg said not only did "deliberate speed" not apply to Memphis parks, but it very likely no longer applied to schools, or at least to the degree that it did in 1955.

He said the decision "never contemplated that the concept of 'deliberate speed' would countenance indefinite delay in elimination of racial barriers in schools, let alone other public facilities not involving the same physical problems or comparable conditions."

## Today and Tomorrow... By Walter Lippmann

### The Negroes and the Nation

SUDDENLY, as it were, the struggle of the Negroes towards equality of status in American society has taken

a sharp turn. The demonstrations in Birmingham have proved to be something more than the work of outsiders playing upon the imaginary grievances of otherwise docile and contented masses. Nobody can now doubt that the grievances are genuine and are deep under the rule of such men as Bull Connor and Governor Wallace. And nobody can have any doubt either that the new generation of American Negroes are shedding the mentality of slaves and that they will not accept quietly an imposed inferiority in education, in jobs, in housing, and in the public facilities.

FOR A HUNDRED years since Lincoln freed the slaves, this country has relied upon the education of the Negroes and the persuasion of the whites to bring about that equality of status to which it is committed. We are now realizing that the present rate of change will not be fast enough. The redress of the grievances of the Negroes is for the new generation too slow in coming. History teaches us that when this point is reached in the struggle for what men regard as their just rights a revolutionary condition exists.

Then the supreme questions are posed. Will the ruling and privileged classes take command of the coming changes? Or will they cling to their privileges and become

the immovable object in collision with an irresistible force?

THE WHITE PEOPLE of this country, not only the white people of Alabama and Mississippi, are now at that crucial point where they must answer those questions. They must choose, on the one hand, between leading the movement towards equality of status and, on the other hand, standing aside and letting matters be decided by collisions between the Negro agitators and the Bull Connors.

The Negro rebellion is now led by men like Martin Luther King who preach and practice the Gandhian doctrine of non-violence. It is a difficult doctrine in any country, and this is a rather violent country. The doctrine worked effectively in British India. But there the ruling power was under the restraint of the long British habit of constitutionalism.

WE CANNOT count upon non-violence persisting in the face of brutal and illiterate resistance. The outstanding danger is not that there may be rioting and brawling. For these can be suppressed. The outstanding danger is a loss of confidence by the Negro people in the good faith of the white people. This is where the turning point lies at the present time.

If confidence is lost that there is a legitimate remedy for genuine grievances, there will be lost at the same time confidence in the doctrine of non-violence. What will come after that it is unpleasant to contemplate.

But those among us who are capable of learning from history will do well to remember what happened in Ireland and what happened in Palestine before the grievances of the Irish and of the

Jews were redressed, and also to reflect on what is boiling under the surface in those parts of Africa where black inferiority is imposed.

THE TIME has come when there must be a change in the American policy as it was laid down under Eisenhower and continued under Kennedy. This is the policy of leaving desegregation, which is a national commitment, to the conflict between private law suits and local authorities. The cause of desegregation must cease to be a Negro movement, blessed by white politicians from the Northern states. It must become a national movement to enforce national laws, led and directed by the National Government.

I think this is the direction in which the President and his brother, the Attorney General, are now moving. They should move directly and boldly and take command of a cause which cannot now be left to irresponsible people. If it is still possible, and I think it is, to hold and even to recover the confidence of the Negroes in the good faith of the whites, then this is the basic principle by which to do it. It is to make plain by word and deed that the Negroes are no longer a weak and isolated minority trying to push the Nation into doing what the national law and American principles require it to do.

THEN, because the national power is behind the movement towards equality of status, that national power, which will be more than sufficient, can be exercised without violence, with wisdom, and with restraint. For it is the very weak rebels who feel that they must resort to the extreme measures.

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Lippmann



# Writ No Good, Says Wallace

MONTGOMERY, Ala. (UPI) — Wallace said the maid is a convict, George Wallace, dismissing writ who works at the executive a subpoena served on a "civilly-mannered and whose civil rights dead" household servant, has given were removed because of a felony in every indication he intends to conviction.

boycott a federal hearing aimed. "It is ridiculous that they (the at preventing his interference in marshals) served a Negro maid the integration of the University in my house," Wallace said. "Civ- of Alabama. ally, she's dead."

A source close to Wallace said. A source close to the governor the governor would not "under said Wallace would not attend the any circumstances" appear at the hearing because he contends the hearing next Monday in Birmingham federal court does not have juris- diction in the case and for him.

U.S. marshals Monday served to attend the hearing "would papers on a Negro maid at the make it appear that the governor executive mansion in an effort to recognizes such jurisdiction."

assure the governor's court ap-  
pearance.

**THE'S A CONVICT**  
Wallace staunchly disagreed in the federal court as a "special with Justice Department officials, party" and make motions for dis- in Washington who indicated the missal of the case on grounds the serving of the subpoena constitut- court has no jurisdiction.

ed proper service.  
Wallace flew to Decatur Mon- day night and was ringed by 15 state troopers when he stepped off the plane. The troopers main- tained a guard throughout the evening, although Wallace dis- missed some of them.

A suit, filed last Friday by the U.S. Justice Department, seeks to bar Wallace from carrying out promised intervention when Ne- groes Vivian Malone and David McGlathery attempt to enroll at the University of Alabama next month.

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Date: MAY 28 1963

### **Birmingham Board To Bow to Courts**

BIRMINGHAM, ALA., May 27 (AP) — A school board spokesman indicated today that board members will comply with whatever decision is rendered on suits aimed at desegregating the city's schools.

"The school board certainly is not going to violate any decision of the court, in my opinion," said attorney Reid Barnes on the eve of an anticipated decision from U.S. District Judge Seybourn H. Lynne.

Lynne decision will follow a warning from the U.S. Supreme Court which said today it will not tolerate avoidable delay in the carrying out of a 1955 order for desegregation with all deliberate speed.

Birmingham's new Mayor

and nine councilmen will hold their first official meeting Thursday since they were confirmed last Thursday by the State Supreme Court as the legal government.

There has been no indication whether racial problems will be taken up immediately.

MAY 28 1963

### *Crying Without Cause*

The Supreme Court said in effect yesterday that Gov. George C. Wallace of Alabama was crying before he was hurt. Consequently, the Court denied the Governor's motion for leave to file a suit against the United States and Defense Secretary McNamara designed to compel the withdrawal of Federal military personnel from the Birmingham area. The Court took note of what must have been obvious to everyone, except Governor Wallace, that the dispatch of Federal troops was merely precautionary. It could not, therefore, be legally challenged by any rational method of stretching the law.

This is as far as the Court needed to go at this time. But if Governor Wallace should fail to preserve order in Alabama and to protect the rights of all citizens there and if the President should find it necessary to use force to make Federal law prevail in that state, the Governor may be sure that the Court will uphold such action in words no less direct and pointed than it used in yesterday's brief per curiam opinion.

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MAY 28 1963

## Long Stride in Civil Rights

Of the three branches of government, it is the judicial that has shown the greatest awareness that the time is now in civil rights. Once again the Supreme Court has taken a long stride to implement its earlier desegregation decisions in the schools and in other areas of American life.

The Court speaks for 1963 when it uses the phrase "promptly vindicated." In 1955 the pace of implementation was "all deliberate speed." Now there is a new rate of acceleration that is addressed not merely to a generation longing for its children's rights but for its own. In changing gradualism to promptness as the standard, the Court in its unanimous decision desegregating parks and recreational facilities in the city of Memphis declared that "the basic guarantees of our Constitution are warrants for the here and now." And it indicated that indefinite delays in eliminating racial barriers in the schools could not be countenanced.

In rejecting the suit by Governor Wallace to bar the use of Federal troops in Alabama, the Court underscored its awareness of conditions in the Deep South and the efforts of the Administration to prevent racial troubles. This decision, too, was rooted in long-standing laws of the United States. President Eisenhower carried out the law in Arkansas in 1957; President Kennedy did so again in Alabama in 1963. These are not exercises of "personal power," as Governor Wallace maintained, but of legal power.

"Constitutional law," said Justice Holmes, "like other mortal contrivances has to take some chances." The Supreme Court yesterday again placed its faith in the people, of all races, South and North, to break down long barriers of prejudice and tradition and to take some fresh chances in civil rights. Not in the hereafter, but now, nearly a century after "equal protection of the laws" became a part of the Constitution.

# Justices Decline to Allow Wallace to Sue on Troops

Special to The New York Times

WASHINGTON, May 27—Gov. George C. Wallace's legal challenge to the posting of Federal troops in Alabama was swiftly rejected today by the Supreme Court.

Nine days ago, on May 19, the Alabama Governor filed a motion for leave to bring an original lawsuit in the Supreme Court.

In a brief order today the Court denied the motion, thus prohibiting a suit, at least at this time.

The Court did not fulfill the Justice Department's desire to have the case decided squarely on its merits. A department brief had asked the Justices to "make it clear" that the President may use troops to protect Constitutional rights.

Instead, the Court said President Kennedy had taken only "preparatory measures" by posting troops near Birmingham. Thus any challenge to the actual use of troops in a tense racial situation was premature, the Court indicated.

In Montgomery, Ala., helmeted state troopers surrounded Governor Wallace and prevented two United States deputy marshals from serving papers on the Governor in a Federal Government suit to enjoin Mr. Wallace from interfering with the registration of two Negro students at the University of Alabama on June 10. The Associated Press reported. The papers were later served on the Governor's maid.

The Court's decision in the case challenging the Federal troops was unanimous. Justice Byron R. White did not participate, presumably because of

Continued on Page 24, Column 8

Continued From Page 1, Col. 7

his connection with similar problems as Deputy Attorney General.

The court's unsigned order read as follows:

"The motion to leave to file the proposed bill of complaint, as amended, is denied. In essence the papers show no more than that the President has made ready to exercise the authority conferred upon him by 10 U.S.C. 333 by alerting and stationing military personnel in the Birmingham area. Such purely preparatory measures and their alleged adverse general effects upon the plaintiffs afford no basis for the granting of any relief."

Section 333 of Title 10 in the United States Code authorizes the President to use troops or "any other means" to suppress an insurrection or domestic violence that threatens to deprive persons of their constitutional rights.

Governor Wallace contended that this statute was unconstitutional because it allowed the movement of Federal troops into a state without a request from its Governor or legislature. He also said the 14th Amendment, prohibiting racial discrimination, had been gravely violated.

The plaintiffs in the proposed suit were the Governor and the State of Alabama. The defendants were the United States and Secretary of Defense Robert S. McNamara.

2,000 Sent Into Alabama

President Kennedy directed Secretary McNamara on May 12 to send troops trained in riot control to military bases near Birmingham. About 2,000 men were sent, but about 500 have since been withdrawn.

The President acted because of riots that followed the bombings of Negro-owned buildings early on May 12. There has been no further violence, and an agreement that halted Negro protests against segregation in Birmingham is still holding up.

The Justice Department, in its brief urging a decision on the merits, said:

"The United States, although composed of sovereign states, is one nation. Its people have rights, privileges and immunities under the Constitution and laws of the United States which the Federal Government has an independent power and duty to protect."

The brief also argued that an authoritative Supreme Court ruling on the President's power "may reduce the danger of domestic violence" and deprivation of constitutional rights. The hope apparently was to reduce resistance to various present and expected integration orders in Alabama.

The Supreme Court, however, traditionally shies away from deciding conjectural questions. It restricts itself to concrete cases presenting immediate legal issues.

Wallace Eludes Marshals

MONTGOMERY, Ala., May 27 (AP)—Gov. George C. Wallace, heavily guarded, eluded today two United States marshals seeking to serve legal papers formally notifying him of a school integration suit. The papers were later served on a maid instead.

The servant, Martha Davis, accepted the papers at the Governor's Mansion after helmeted state troopers had kept the deputy marshals from handing them to Mr. Wallace himself.

As she took the papers, she was admonished by the Federal officer to "be sure he [the Governor] gets them."

About a dozen troopers wearing plastic helmets guarded the mansion until Mr. Wallace left there in midmorning.

When the Governor drove to a downtown hotel for a conference with members of the specially created State Sovereignty Committee of the Alabama Bar Association, the troopers accompanied him. They also escorted him into the hotel.

The marshals waited in the lobby for nearly two hours. Then, following a conference with two of Mr. Wallace's aides, they returned to the mansion and handed the papers to the maid.

The suit was filed by the Justice Department in an effort to stop Mr. Wallace from carrying out his promise to appear in person at the University of Alabama and turn back two Negro students.

Hours after Federal Judge H. Hobart Grooms signed an order in Birmingham directing the university to enroll the Negroes, the Governor said he would be present when the summer term opened June 10. He said he would physically bar the Negro students, invoking his constitutional powers as head of the state government.

The Justice Department suit, scheduled for hearing next Monday, seeks a court order to prohibit Mr. Wallace from interfering.

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Front Page    Side Page    Other Page

Date: MAY 28 1963

## U.S. Marshals Strive To Insure Wallace's Hearing Appearance

Montgomery, Ala. (UPI)—U.S. marshals served papers Monday on a Negro maid at the executive mansion, apparently in an effort to assure the appearance of segregationist Governor George Wallace at a Federal court hearing next Monday.

The marshals declined to say if the serving of the papers to the maid constitutes hostile service on the Governor but in Washington, D.C., a Justice Department spokesman said that it did.

Apparently startled by the troopers, marshals Henry Floyd and Jack Johnson, handed the Governor's maid, Martina Davis, four state subpoenas by dispatching restrained troops to

However, a State trooper on guard at the Governor's Ante Belum home, said Wallace would not accept service from a member of his staff.

THE JUSTICE Department filed suit in Birmingham last Friday seeking a court injunction restraining Wallace from interfering with the scheduled integration of the all-white University of Alabama next month.

Wallace closed himself with the State Sovereignty Committee most of the day. First he hid in a downtown hotel and then in his inner office at the Capitol.

The Supreme Court Monday rejected Wallace's claim that President Kennedy violated Federal subpoenas by dispatching restrained troops to

Alabama to preserve racial peace in Birmingham, if necessary.

Reliable sources said Wallace and the sovereignty committee, composed of top constitutional lawyers, discussed this and two other pressing matters:

1. What paths to take in appealing Federal Judge H. Hobart Grooms' refusal to delay admission of two Negroes to the university on June 10.

2. WHAT ACTION to take at a hearing set June 3 before Federal Judge Seybourn H. Lynn to show cause why Wallace should not be enjoined from interfering with the scheduled integration of the University campus at Tuscaloosa and the university extension at Huntsville.

Wallace, an outspoken segregationist who challenged the Federal Government inauguration day with a cry of "segregation forever," has promised to block admission of Negroes Vivian Malone of Mobile and David Mc-Glattery of Huntsville.

MAY 28 1963

## BIRMINGHAM LOSS IN STORES WIDENS

Businessmen Say the Racial  
Strife Is Not Sole Cause

By JACK LANGGITH  
Special to The New York Times

BIRMINGHAM, Ala., May 27 — Retail sales here have dropped substantially during the last month, but business leaders say the city's economic problems are neither new nor the sole result of recent racial conflicts.

Figures released by the Federal Reserve Bank in Atlanta show that in the four-week period ended May 19, department store sales in Birmingham were 15 per cent below the total for the same period last year.

Since Jan. 1, 1963, the city's department stores showed a 5 per cent decline from 1962.

In the same four and one-half months, department stores in other cities recorded these gains over the previous year: Mobile, Ala., 3 per cent; Jacksonville, Fla., 15 per cent; Atlanta, 7 per cent, and New Orleans, 10 per cent.

### Boycott Continues

An economic boycott by Negroes of all-white businesses, begun by the Southern Christian Leadership Conference, continues in effect. "Since the agreement was reached with white merchants, however, Negroes who have faith in the agreement have begun returning downtown to the stores, and one conference spokesman said one conference spokesman. "There's been a relaxation."

If the boycott is easing, the change has not yet been reflected in the department store figures, which show sales dropping steadily since the end of April.

In the week ended April 27, sales were down 10 per cent from the same week in 1962. On May 4, the drop went to 11 per cent; then to 16 per cent on May 11; and finally to 17 per cent on May 18, the last week for which figures are available.

"Of course, all this unpleasantness has hurt us," said John E. Steger, executive vice president of the Birmingham Chamber of Commerce. "But you can see business slacking off all through the South."

### Cites Buying Power

Mr. Steger also points out that while the population of metropolitan Birmingham — 735,000 — is 35 per cent Negro, studies show that the Negroes' buying power is only 12.5 per cent of the city's total.

"Given those figures," he said, "the impact of a Negro boycott simply can't be heavy enough to cause the downtown business decline. There have to be other business factors."

Birmingham's downtown businessmen prefer not to comment on a counter-boycott, proposed by former City Commissioner Eugene Connor, by white shoppers against those downtown merchants who negotiated with Negro leaders.

"I don't think there's been any appreciable white boycotting," said one white spokesman. "But I don't like to say much about it for fear of fanning the whole subject up again."

Kidney W. Smyer Jr., a real estate agent, said the belief that the Negro mass demonstrations had prevented many white shoppers from venturing into the downtown area in recent weeks.

### Suburban Trend Noted

Mr. Smyer's father was the chairman of a group of white business and professional men, called the Senior Citizens Committee, who negotiated a truce in the demonstrations with Negro leaders.

"What the entire episode accomplished," Mr. Smyers continued, "was a trend toward suburban shopping that has been under way for some time here, as it has been in most cities."

Independently conducted studies show that for the last decade retailing concerns and professional offices have been leaving Birmingham's downtown area. Although per capita income in the city has been at least as high as that in other southern cities, a seven-year survey concluded that Birmingham ranked low in retail sales per household behind New Orleans, Atlanta, Memphis and Louisville.

Mr. Smyers said businessmen and real estate agents had long encountered difficulties in attempting to persuade companies from other sections of the country to settle in Birmingham.

"The city has a high per capita average of income, and the steel mills have made it a highly unionized area with some history of labor dispute," he said.

"All this adverse publicity will make it even harder to bring new industry to Birmingham," Mr. Smyers said. "But if we can come out of this with a new face, that desirable image

will also receive a lot of attention. We could become known as an area of enlightened leadership."

### Javits Cites Prestige Loss

WASHINGTON, May 27 (AP)—Senator Jacob K. Javits, Republican of New York, told the Senate today that "the Communist-bloc countries have had a field day" with racial troubles in Birmingham. "Even in friendly countries United States prestige has suffered," Mr. Javits said.

Effective protection of civil rights, Mr. Javits said, could still undo the prestige damage.